

Complaining, Appealing or Just Getting it Sorted Out

**Complaints Procedures for Community Care
Service Users**

Jacqueline Gulland

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Declaration

I declare that this thesis is entirely my own work and that it has not been submitted for any other degree or professional qualification.

Jacqueline Gulland
March 2007

Abstract

The primary aim of this thesis is to consider whether the social work complaints procedure in Scotland is an appropriate means of dealing with dissatisfaction experienced by users of community care services. Debate in the socio-legal literature has focused on different models of justice in grievance and appeal mechanisms for users of public services. Set in the context of this wider debate, this study looks at the operation of the social work complaints procedure in Scotland, focusing on the experiences of complainants in two local authorities.

Setting the research in context, the thesis looks at recent policy developments in community care in Scotland, at recent changes to the health complaints procedure and at proposals to change the social work complaints procedure in Scotland, England and Wales. The main source of data is interviews with people who had made complaints in the two local authorities. As well as looking at complainants' views, the study also considers the views of people responsible for running the complaints procedure in both local authorities. Focus groups with community care service users were used to explore the views of those who may not have used the complaints procedure.

A key concern is whether it is possible to distinguish different types of complaints: those which are primarily 'appeals' against refusal of services; and those which are about the way that people are treated. Using the experiences of people who had made complaints in both local authorities and a database of all complaints to one local authority, it is shown that it is not easy to make this distinction although some complaints fall more clearly into one category or the other. The classification of complaints relates closely to

what people want from a complaints procedure. The purpose of a grievance procedure can be considered in terms of 'models of justice'. The motivations of complainants and the views of those who operate the procedure are considered in the context of literature on models of justice. The thesis looks at how the complaints procedure operates in each of the two local authorities and considers the relative value of 'informal' and 'formal' processes. It goes on to look at what happens when people make formal complaints, whether complaints are resolved and what people think about this. Barriers to complaining are also considered. Finally the thesis looks at complaints which reach the end of the complaints procedure - the complaints review committee - and those which reach the Scottish Public Services Ombudsman.

The thesis concludes that there is considerable ambiguity as to the purpose of the community care complaints procedure. Some complainants use the procedure as an 'appeal' against decisions made by the local authority, while others just want to get their problems 'sorted out'. Some complainants are, at least in part, attempting to get the local authority to improve services for others. The emphasis of local authority staff in this study is primarily on ensuring that complainants have an opportunity to have their 'voice' heard. The word 'complaining' itself carries connotations which some service users see as negative, although others are more assertive in their use of the word. In procedural terms there is much that can go wrong between the initial 'informal' complaint and the more independent level of the procedure: the complaints review committee. There are considerable problems in defining 'complaints' and ensuring that they are handled within the guidelines. This means that it is difficult for justice to be seen to be done.

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List of abbreviations

Abbreviation	Definition
CRC	Complaints Review Committee
DLA	Disability Living Allowance
OT	Occupational Therapist
SCONe	Scottish Complaints Officers Network
SCRC	Scottish Commission for the Regulation of Care (also known as the Care Commission)

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Chapter one

Introduction

..when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for.

(John Milton, *Areopagitica*, 1644, p1)

It was the fact that it had to be taken a lot more seriously by the head bosses, that they should know about the people working below them, that they are not following through their job the way they should. They should be aware of it.

(Claire Elliot, community care service user, interview, 2005)¹

In the title of this thesis I ask whether people making complaints about community care services are 'complaining', 'appealing' or just trying to get something 'sorted out'. I ask this question because the purpose of a complaints procedure is not always entirely clear. It seems straightforward that people ought to be able to complain about problems with public services and that their complaints ought be acted upon in a way that enables the same problems to be avoided in the future. However, complaints procedures have a variety of purposes, not all of which are compatible with each other and each of which raises different issues about how complaints should be handled.

At first glance the purpose of a public sector complaints procedure seems obvious – if someone is unhappy with something that has been done by a public authority, they ought to be able to do something about it. This is summed up in the recent White Paper on reform of the tribunal system:

¹ All names of interviewees are pseudonyms

CHAPTER ONE – INTRODUCTION

We are all entitled to receive correct decisions on our personal circumstances; where a mistake occurs we are entitled to complain and to have the mistake put right with the minimum of difficulty; where there is uncertainty we are entitled to expect a quick resolution of the issue
(Department for Constitutional Affairs, 2004, p3)

The White Paper goes on to say:

... and we are entitled to expect that where things have gone wrong the system will learn from the problem and will do better in the future.
(Department for Constitutional Affairs, 2004, p3)

This reflects the dual purpose of redress mechanisms: ‘righting’ individual wrongs and enabling organisations to learn from mistakes or problems with procedures. While these two purposes are often mentioned, the balance between them shifts depending on the context.

A distinction is often drawn between ‘complaints’ procedures and ‘appeal’ procedures. Complaints procedures are more concerned with collecting management information to improve services overall while appeals are designed to enforce individual rights. A recent National Audit Office report on citizens’ redress also makes this distinction, arguing that complaints systems are generally about ‘raising issues of administrative blame .. indicators of things having gone wrong’, while appeals systems are designed to deal with substantive decisions and are ‘not generally treated.. as raising matters of administrative fault’ (National Audit Office 2005, p18). The authors of the report go on to argue that this distinction between complaints and appeals is unhelpful, as what we need is a combined system for ‘getting things put right’ (p7) and that, whether they are called complaints or appeals, citizens’ grievances should be used as a management tool to improve delivery of services (p14).

This thesis takes the redress mechanism in one area of social welfare, community care, and looks at how it is used, what purposes it has and whether it is an appropriate mechanism for resolving citizens' grievances. It considers why people make complaints, what they expect to achieve and what prevents them from pursuing complaints as far as possible. The thesis considers these questions from the perspective of people who use community care services.² Despite the apparent simplicity of making a complaint, it is quite unusual for people to use formal complaints procedures. Very little research has been carried out on complaints procedures in community care but, in the context of complaints about health services, Mulcahy and Tritter say:

Complaining is an atypical reaction to dissatisfaction ...[and] an expensive distraction from everyday problems and concerns.
(Mulcahy and Tritter 1998, p828)

The focus in this thesis is on people who reacted in this 'atypical' way: something prompted them to take that extra step beyond everyday concerns and make a formal complaint. It also considers some of the barriers to complaining.

Motivation for doing this research: a personal history

My original motivation for doing this research stemmed from my past work experience. I had spent fifteen years working in the field of welfare rights, advising people of their rights, mainly to social security benefits, and helping

² The term 'community care' is itself contentious and the term 'independent living' is preferred by some (Morris 1993). The term is used here because it is the one used by policy makers and local authorities. For further discussion of this debate, see chapter 2.

them to use appeal procedures to enforce these rights. During this time I ran an information service for an organisation of disabled people³ and also worked for a generalist advice organisation⁴ where, among other things, I had responsibility for producing information for advisers on community care. It had frustrated me that it was difficult to advise people about their rights to community care services. Advising people about social security was relatively straightforward; social security benefits were based on legislation which, although complex and impenetrable at times, was nevertheless, largely rights-based. Community care services however were based on nebulous local policies and priorities. Community care services are not entirely discretionary though and there is some legal basis to the way in which they are provided. There has been considerable debate in the legal, policy and service users' communities about the extent to which the current legislation confers 'rights' to services and whether these should be extended further. Through my experience of advising people about welfare rights I also became interested in how far people understand the legal basis of social welfare and their rights to challenge decisions. I began to look for an opportunity to study them further.

This opportunity arose in 2001 when I carried out research for a literature review on the experiences of people who use tribunal systems (Adler and Gulland 2003). The literature review was conducted under the auspices of the Tribunals for Users programme which was set up following the Leggatt Report (Leggatt 2001) and which led eventually to the White Paper on

³ The Grapevine Disability Information Service, based with the Lothian Coalition of Disabled People

⁴ Citizens Advice Scotland

administrative justice (Department for Constitutional Affairs 2004) and the establishment of the Tribunals Service in 2006. The White Paper claimed to look more widely than the existing tribunals system and to consider wider issues concerned with 'administrative justice'. While conducting the literature review it became clear to me that although tribunal systems are available to people who have disputes with the state about a range of services, there are also some significant gaps. Community care is one of these: there is no independent appeal procedure and the only formal mechanism for challenging decisions is the social work complaints procedure. Thinking about this led to the current research.

Background research

My original research question was whether the local authority complaints procedure is an appropriate way to deal with people's disputes about community care. I wondered whether an 'appeal' procedure might be more appropriate. The social work complaints procedure does have a stage that looks like a tribunal, the complaints review committee, and I wondered how well this worked.

I began my research by talking to advisers in voluntary organisations that provide advice to community care service users. These voluntary sector workers were surprised that anyone would be interested in using the complaints procedure. They believed that complaints procedures are only used in exceptional cases. What voluntary organisations do when their clients (or users) have a problem is to phone up the local authority and 'sort it out'.

However, some people do use the complaints procedure. My next step was to find out what sort of things people do complain about. Do they use the complaints procedure as an ‘appeal’ procedure or are complaints more about the way in which people are treated?

I started with the local authorities themselves and asked them what sort of complaints they received. In order to get what I hoped would be a comprehensive picture of complaints across Scotland, and to help me decide how to conduct my main research, I collected data on social work complaints from all thirty-two Scottish local authorities, based on the annual reports that they are required to produce.

I found out several things from this exercise. First of all, local authorities in Scotland vary considerably in the way that they record and report complaints. Some produce quite detailed reports on all the complaints they receive while others appear to have no records and certainly no public reports on complaints. Most local authorities fall somewhere in the middle. Secondly, local authorities define complaints in a wide variety of ways: what is an ‘informal’ complaint in one authority may be regarded as a ‘formal’ complaint in another, or may not be considered to be a complaint at all in a third. This poses a problem for attempting to compare complaints across authorities. A third problem concerns the classification of complaints. My apparently simple question: ‘what do people complain about?’ cannot be easily answered from the local authorities’ reports because they do not use a standard classification system. I could not use the annual reports to answer

my question about whether people use the complaints procedure as an ‘appeal’ procedure to challenge decisions made by the local authority or whether complaints are mainly about the way in which people are treated. This distinction is quite blurred and ‘what a complaint is about’ depends, in part, on the perspective from which you view it: complainants might think it is about one thing while the local authority might think it is about something else. Finally, there are very few complaints review committee hearings each year in Scotland so it is difficult to find out very much about their effectiveness. For a more detailed discussion of the information that annual reports do and do not contain, see Gulland (2003).

It was clear to me that the best way forward in attempting to answer my original research question was to look in closer detail at what happens when people make complaints about community care. Given that complainants and local authorities may have different views on ‘what complaints are about’ a reasonable starting point was to ask the complainants.

The main body of this research is concerned with what complainants in two local authorities told me about the complaints they had made, why they complained, what they complained about, what they hoped would happen and what they had done when they were not happy with the result of their complaint. As well as talking to complainants I also spoke to voluntary organisations who work with community care service users, to the people responsible for running the complaints procedure in the two local authorities and to some groups of community care service users who had not necessarily made complaints (for full details see chapter three).

Research questions

I had a number of questions at the start of this research which continued to be important as it progressed:

- What is a complaint?
- What do people complain about and can complaints be usefully divided into those which are about local authority decisions (outcomes) and those which are about the way in which people are treated (procedures)?
- What is the difference between an ‘informal’ complaint and a ‘formal’ complaint?
- What do people want from the complaints procedure?
- What happens to people’s complaints?
- How effective is the complaints review committee?
- What stops people from using the complaints procedure or from following it through to the end?

A new question arose in the course of the research, partly as a result of what my interviewees told me but also as a result of other people’s reactions to my research. When I explained to friends and relatives that I was looking at complaints procedures, I found that they reacted in one of two ways: either they launched into a description of a problem that they had encountered themselves; or they said ‘oh dear, that’s a bit negative’. ‘Complaints’ have negative connotations. The questions that this raised in my mind were:

- What does it *mean* to make a complaint? How does the word ‘complaint’ affect people’s views of the process?
- How does a complaint differ from an ‘appeal’ or from something that needs to be ‘sorted out’ and should we have different procedures for dealing with them?

CHAPTER ONE – INTRODUCTION

These questions are addressed in the main part of the thesis.

In order to set the research in context, chapter two looks at recent policy developments in community care in Scotland, drawing out some themes which are relevant to the role of complaints procedures. There have been recent changes to the health complaints procedure in Scotland and proposals to change the social work complaints procedure. At the same time, changes have also been made to the health and social care complaints procedures in England and Wales. Chapter two outlines and compares these changes. The chapter goes on to look at recent research on complaints procedures and other areas of citizen redress and to consider some of the socio-legal literature on administrative justice.

Chapter three outlines the methodology used for the research, discussing some of the options that were considered at the beginning, what happened in practice and how the data was analysed.

Chapter four describes the data that were collected, and gives a breakdown of the demographic characteristics of the individual interviewees. An outline of the two case study authorities is also provided in this chapter. While the initial plan for the research was to compare the case study local authorities, it became clear, as the research progressed, that the similarities between the complainants' experiences in each authority were more important than the differences. However, there were some differences in the way the two authorities operated the complaints procedures. These differences are described in chapter four.

CHAPTER ONE – INTRODUCTION

Chapters five to nine deal with the research findings as they address the research questions. Chapter five looks at what people complain about and discusses whether a system of classification can be devised to distinguish different types of complaint. Chapter six considers the issue of informal and formal complaints, whether they can be distinguished and whether it matters, and goes on to look at what happens when people make formal complaints, whether complaints are resolved and what people think about this. Chapter seven looks at complaints which reach the end of the complaints procedure: the complaints review committee and the Scottish Public Services Ombudsman. Chapter eight considers the barriers to complaining and how these might be overcome. Finally, chapter nine comes back to a question addressed in chapter two: whether models of justice can help us to understand the purpose of the complaints procedure.

Chapter ten, the conclusion, considers the research questions again, in the light of the findings and raises issues which could be pursued in further research.

Chapter two

Policy and Research Background

There are two main areas of policy and research that are relevant to this thesis: community care and administrative justice. A considerable amount has been written about both of these areas but there has been little work on the overlap between them. The thesis attempts to address this overlap. This chapter describes recent policy developments and research in both areas.

Recent developments in community care policy

Current community care policy in the UK stems from the changes brought about by the National Health Service and Community Care Act 1990 which gave local authorities the primary responsibility for supporting people with disabilities (both younger people and older people), people with mental health problems and people with learning disabilities. Their role was to assess the needs of people and then to arrange for the necessary care to be provided 'in the community' if possible. Local authorities also took over the responsibility for financing residential care from central government, the idea being that the decision to enter residential care would be based on a needs assessment which would also consider the option of staying 'in the community'. As a result, residential care is also covered by 'community care' legislation and policy. It must also be stressed that, while local authorities are responsible for assessing people's needs and arranging to provide services to meet these needs, most 'community care' is in fact carried out by informal carers, who may have had no contact with the local authority (Curtice *et al* 2002).

Community care in a devolved Scotland

There have been several legislative and policy developments affecting community care in Scotland since devolution: the introduction of free personal care for older people; the introduction of 'single shared assessments' with health authorities; the expansion of the availability of 'direct payments', enabling people to purchase their own care services, although not as fast as in England (Riddell *et al* 2005); the establishment of the Scottish Commission for the Regulation of Care, which took over from local authorities the responsibility for registration, monitoring and dealing with complaints about the quality of services; and the Scottish Social Work Inspection Agency, which has responsibility for monitoring the performance of social work departments.

There has been some rhetoric about a different approach to community care in the devolved Scotland, particularly surrounding the issue of free personal care, but the main principles of 'consumer involvement', marketisation of services and managerial solutions to problems of provision have been quite similar to those in England (Ferguson 2005), although Keating *et al* argue that developments in England have shown a 'greater distrust of local authorities' (Keating *et al* 2003, p126).

Purchaser/provider split and the role of the Care Commission

One of the guiding principles behind community care policies in the 1990s was the contracting out of services to the private and voluntary sectors, so

that the role of local authorities was primarily that of assessing needs rather than providing services directly. Although this has been a major development in England (Glendinning and Means 2006) it has been slower in Scotland (Petch 2000). In Scotland contracting out has been particularly widespread in the provision of residential care: in 2005, 85% of care home places were provided by the voluntary or private sectors (Scottish Executive, 2006c). Home care services, on the other hand, are still more likely to be provided by local authorities, although the proportion of services provided directly by local authorities is falling. For example, in 1998 98% of people who received at least ten hours a week of home care had this service provided directly by the local authority. By 2005 this proportion had fallen to 77% (Scottish Executive, 2005c). Day care places are provided by local authorities in 75% of cases (Scottish Executive 2006d). This shows that local authorities in Scotland are still the major providers of formal care services in the community but they are more likely to be assessors rather than providers of residential care. Most care is provided by informal carers and is not reflected in these statistics.

The implication of this for complaints is that it will not always be clear to which body a complaint should be made. If a complaint is about the way in which a service is provided then the complaint should be made to the provider, in the first instance. If on the other hand, the complaint is about a decision made by the local authority, then the complaint should be made to the local authority.

CHAPTER TWO – POLICY AND RESEARCH BACKGROUND

This is further complicated by the role of the Scottish Commission for the Regulation of Care (known as the Care Commission). The Care Commission was established in 2002, under the Regulation of Care (Scotland) Act 2001. Its purpose is to regulate and inspect all care services in Scotland. It replaced the previous registration and inspection units run by local authorities and health boards.

Care services are defined as including a wide range of care services for both adults and children, incorporating residential, home based and day services, provided by local authorities, voluntary or private organisations. The Care Commission's registration role gives it considerable powers, including the right to inspect services, the power to serve either an 'improvement notice', requiring the service provider to make specific improvements or a 'condition notice' placing conditions on the registration of the service and, ultimately, the power to withdraw registration. As part of the Care Commission's responsibility to regulate care services in Scotland, it also operates a complaints procedure relating to these services. The complaints procedure is available 'in relation to the provision of a care service' registered by the Commission (SCRC 2004).

In practice the Care Commission defines its role as to deal with complaints about the *quality* of care services, reflected in the National Care Standards (Scottish Commission for the Regulation of Care, personal communication). The National Care Standards consist of around 25 sets of standards, covering the range of services regulated by the Commission. The standards cover such

matters as privacy, safety, space and facilities, information and equal opportunities. Standards are different for different types of service.

The Care Commission comes in *only* once a service is being provided and only in connection with the quality of that service. It cannot deal with complaints about whether or not a service is provided (or paid for) by the local authority, or anything relating to decisions about levels of service provision or charging for services. Nor can it deal with complaints about the way in which decisions are made by the local authority (eg delays in assessments, staff attitudes where the staff are assessing rather than providing a service). The Care Commission can however deal with complaints about the quality of local authority provided services (eg home care or day care) and would do so in the same way as it deals with services provided by the voluntary or private sectors. Complainants have the option of using the local authority complaints procedure first or going straight to the Care Commission. This is considered essential to enable 'whistle blowing' and complaints about serious abuse where it would be difficult for the complainant to go direct to the provider.

The trend towards services being provided by bodies other than the local authority means that there is a potentially growing separation between the disputes that arise because of a decision made by the local authority and those that arise because of the quality of services provided. The establishment of the Care Commission and its complaints procedure reflects this split in responsibilities between assessment and provision. This seems straightforward so long as the split is real. If the split is clear (whoever

provides the services), the complaints route also appears to be clear: provider complaints should be made to the Care Commission (with the option of using the provider's procedure first, whether private, voluntary or local authority); while complaints relating to assessment and allocation of resources should be made to the local authority. The problem is that the split is probably not as clear as this in practice or in the minds of service users or providers.

User involvement

Another important principle in the community care initiatives of the 1990s was that of 'user involvement' in decisions about services. The drive for this came partly from the general move to 'consumerism' in public services and partly from the demands of the independent living movement (Morris 1993). The idea of user involvement has run through community care policies since the early 1990s, but some have argued that it has been rather meaningless given the inherent imbalance of power between 'users' and professionals and the drive to contain costs (eg Braye and Preston-Shoot 1995, Twigg 2000).

However, the rhetoric of user involvement has meant that, in theory at least, users' views ought to be taken into account. The community care assessment process was designed to be participative, the theory being that service users should have their say at this early stage. However, this has not always happened in practice and service users do not always believe that they have been involved in decisions about their care (Hardy *et al* 1999, Morris 2004, Rummery 2002). For example, Curtice *et al*'s research into the views of frail older people on the verge of entering residential care shows that the decision

to enter residential care is often made without much attention to the views of the older person (Curtice *et al* 2002).

Another way in which local authorities can involve users is by paying attention to complaints made through the complaints procedure. The extent to which this happens in practice and the significance given to information gained in this way is one of the key issues in this research.

Targeting of services

Other developments since the 1990s have included persistent ‘panics’ about the increasing cost of care in an ageing society (Harding 2005). The focus on cost saving in all government services, including community care, has led to a targeting of resources on those ‘most in need’. This has led community care services to be focused on avoidance of risk, rather than on promoting wellbeing (Curtice *et al* 2002, Mandelstam 2005, Morris 2004, Nuffield Community Care Studies Unit 2002, Waterson 1999), despite the fact that ‘low level’ care services can make a significant difference to maintaining people’s independence and ability to live in the community (Clark *et al* 1998). The significance of this for complaints procedures is that people’s expectations of what might reasonably be provided are increasingly not matched by local authority priorities.

Needs, rights and the independent living movement

The independent living movement as described by Morris (1993 and 2004) moves the focus away from ‘care’ to ‘citizenship’, arguing that what disabled

people need is a right to services that enable them to participate in society. The key to this is having ‘control’ over these services, however they are provided. The independent living movement’s demand for direct payments to enable disabled people to take control over their own services grew during the 1990s and has had some success in the sense that direct payments are now accepted as an alternative to direct service provision. The Department of Health’s proposals for ‘individual budgets’ in England have taken this idea further. The Green Paper on social care (Department of Health 2005) proposes an extension of the idea behind direct payments through a scheme of ‘individual budgets’ whereby people would have control over the budget for a wider range of services than direct payments currently allow. Glendinning and Means (2006) argue that this will necessitate ‘transparency about the level of resources available and therefore the decision-making processes by which these are allocated to individuals’ (p19). However they also warn that increasing choice only works when users have sufficient knowledge and skills to make real choices. In addition local authorities would still have a ‘gate keeper’ role in deciding the level of budgets. Glendinning and Means suggest that greater equity could be achieved by moving the assessment and management of the service to independent bodies (p22).

Parallel proposals have not been introduced in Scotland and the nearest that policies come to providing user control of resources is the direct payments scheme. Direct payments enable service users to decide how to use the resources they have been assessed as needing. Despite a slow start to being recognised as a means of achieving independent living (it was illegal for local

authorities to make direct payments until 1997), direct payments legislation has now been implemented throughout the UK, although implementation in specific local authorities is patchy (Riddell *et al* 2005). The Community Care and Health Scotland Act 2002 made it mandatory for local authorities to offer people direct payments instead of services. Early research on the effectiveness of direct payments shows that they have been popular amongst service users and that they do have the potential to bring about genuine user control, so long as the necessary support mechanisms are in place and resources are sufficient (Riddell *et al* 2006, Spandler 2004, Witcher *et al* 2000). There have also been some criticisms, which focus mainly on the potential for exploitation of low paid care workers and on the problems created by inadequate funding of direct payment schemes (Morris 2004, Riddell *et al* 2006, Spandler 2004, Watson *et al* 2004).

Restrictions on resources remain among the key problems with direct payments. Although the direct payments can bring about autonomy for service users, people are still dependent on the local authority to assess them in the first place. The Disability Rights Commission recently embraced the idea of a right to 'independent living' as one of its objectives (Disability Rights Commission 2005, Morris 2004). Policy makers have stopped short of creating a 'right' to the resources that would be required to achieve independent living, or a full right to choose how resources should be used.

Such rights as do exist, such as the right to an assessment, are difficult to enforce without clear redress procedures. Research by Davis *et al* (1997) shows that breaking through the initial barrier of getting an assessment for

community care services is particularly difficult and that neither service users nor professionals are particularly aware that this is a legal entitlement. It has also been argued that a rights based approach to services benefits only the 'articulate and well informed' (Clements 2005, Riddell *et al* 2000). Lack of knowledge of what services might be available and of the legal basis for these services can be compensated for by the involvement of advocacy services (Coombs and Sedgewick 1998, Schwer 2000, Stewart 2005). However, there is a particular shortage of advocacy services for disabled and older people (Advocacy Safeguards Agency 2004). Even where such services exist, people have to know that they are available and how the services might help them before they can access them.

Legislative basis of community care services

The legislative basis for most community care provision in Scotland is the Social Work (Scotland) Act (1968), the Chronically Sick and Disabled Persons Act (1970) and the National Health Service and Community Care Act (1990) (Mays *et al* 1999, Mandelstam 2005). There are many more pieces of legislation and guidance affecting what local authorities are obliged or empowered to do. The amount of legislation affecting community care is significant, constantly changing and does not lead to clear rights and duties. Mandelstam describes the law on community care as 'rife with legal and practical uncertainties' (2005, p36).

Much of the legal debate about community care has been concerned with the distinction between 'needs' and 'rights'. The legislation, in the main, does not

create individual *rights* to services but defines the *duties* or *powers* of local authorities to arrange for these services to be provided. Local authorities are required to carry out community care assessments for anyone who ‘appears to be eligible for services’ (Mays *et al* 1999, p215). However, having carried out this assessment, the duty is only to ‘identify’ needs and to make arrangements to meet these, ‘having regard to the local authority’s budget’ (Mays *et al* 1999, p230). This means that in practice there is no right to services, only a right to assessment, and that anything beyond this is subject to the professional assessment of ‘needs’ and to local criteria for rationing scarce resources. Tanner (2003) reminds us that even the rhetoric of ‘needs’ depends on resources, since needs will be defined differently depending on the resources available. This does not mean that the local authority is free to do what it likes and issues have been raised in the courts through a series of judicial review cases. Although most of these have been raised in England, the decisions of the English courts are considered to be ‘persuasive’ in Scotland. Some landmark cases have clarified the basis on which decisions ought to be made by local authorities but the debate continues and new challenges may be possible under human rights legislation, using the argument that the explicit requirements of the European Convention on Human Rights, embodied in the Human Rights Act (1998)⁵ to prevent ‘inhuman or degrading treatment’ and to ‘respect private and family life’ could be used to challenge decisions by local authorities concerning community care (Harding 2005, Lawson 2005, Mandelstam 2005). Actions under the Human Rights Act are however still at an early stage of development.

⁵ And, in Scotland, the Scotland Act (1998)

Local authorities also have powers and, in some circumstances, duties, to charge for the services they provide. The legislation covering this is also complex.⁶ Although arrangements for charging for residential care are largely determined by Scottish legislation and guidance, individual policies on charging for non-residential care services can vary greatly from one authority to another and there is considerable room for discretion (Mays *et al* 1999, pp226-228, Mandelstam 2005). A recent decision by the Scottish Public Services Ombudsman questions why there is no independent appeal procedure specifically for decisions about charging (Scottish Public Services Ombudsman 2006c, para 36).

Since the introduction of ‘free personal care’ in 2002, guidance from the Scottish Executive and the Convention of Scottish Local Authorities has sought to clarify what local authorities can and cannot charge for (Scottish Executive 2003a). There is still a debate about the details of what is covered by ‘free personal care’, exemplified by the issue of preparation of food:

The main controversy has been about whether assistance with the preparation of meals is an eligible cost under free personal care. Broadly speaking, the Executive claims that it is, whereas a number of local authorities and their representative body COSLA, claim that it is not. (Scottish Parliament Health Committee 10th Report 2006, para 50)

The legislation on community care is complex and is not particularly well understood by practitioners, let alone by service users. One of the few rights

⁶ Charging arrangements are determined largely by the National Assistance Act (1948), the Social Work (Scotland) Act (1968), the Health and Social Services and Social Security Adjudication Act (1983) and the Community Care and Health (Scotland) Act (2002).

which people do have is the right to make a complaint. Recent policy on complaints procedures is discussed below.

Policy on complaints

The social work complaints procedure

The route for making complaints about community care in Scotland is through the local authority social work complaints procedure. This procedure is statutory and all local authorities must have such a procedure in place.⁷ Details of how the procedures should operate are contained in Scottish Office Guidance (Scottish Office 1996). This guidance is not binding but it is expected that authorities will follow it in principle (Mays *et al* 1999, p209).

The Directions state that complaints can be made either orally or in writing (Direction 8), that a final stage of the complaints procedure should involve a 'Complaints Review Committee' made up of three people, including at least one 'independent' person (Direction 13) and that complaints should be dealt with within specified timescales (Direction 10). Further than this the Directions say little about how the procedure should operate in practice. The Guidance states that the procedure should involve three stages - an informal problem solving stage; a formal stage and a final stage involving the Complaints Review Committee (Scottish Office 1996).

⁷ The statutory basis is the Social Work (Representations Procedure) (Scotland) Order (1990), as amended by the Social Work (Representations Procedure) (Scotland) Directions (1996), issued under the National Health Service and Community Care Act (1990).

The Complaints Review Committee is the final stage of the procedure. If a complainant is still dissatisfied with what has happened at this stage, she or he can make a complaint to the Scottish Public Services Ombudsman (if maladministration has been alleged) or raise an action for judicial review (if there are grounds for this). Both of these actions require that the social work complaints procedure has been used first (Mays *et al* 1999, pp43 and 46).

It has been recognised that the 1996 Guidance is now somewhat out of date, partly because of changes to the administrative structure of local authorities and the establishment of the Scottish Parliament, the Care Commission and the Scottish Public Sector Ombudsman, but also because of changing views about how complaints procedures should operate. The Scottish Executive embarked on a review of the social work complaints procedure in 2003 and a working group met to look at what needed to be changed. At one point this working group considered the idea of abolishing the Complaints Review Committee. Social work complaints would then be dealt with by the local authority in the first instance, followed by a direct route to the Ombudsman if complainants were dissatisfied (*Community Care*, June 10 2004). The working group also looked at how social work complaints could be integrated into a wider local authority complaints procedure (Scottish Public Services Ombudsman 2005, p32). However, no proposals for change have been made at the time of writing (January 2007). The recent 21st Century Social Review of social work, carried out by the Scottish Executive, does not make any direct reference to complaints procedures (Scottish Executive 2006a). It refers to 'untoward incidents' but these are described mainly in

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terms of serious management issues that could be picked up by the media rather than the day to day problems that might be dealt with through the complaints procedure:

There will inevitably be untoward incidents in any service which involves working with people. In social work services this has often resulted in negative media coverage and has damaged public and worker confidence in these services.

(Scottish Executive 2006a, p54)

On the other hand a recently commissioned review of 'regulation audit, inspection and complaints handling in public services' includes the role of complaints handling in its remit, asking how complaints handling can be used to drive service improvement and can be better co-ordinated (Scottish Executive 2006b). It is possible that the reform of social work complaints procedures could be revived by this review.

In contrast, the complaints procedures for community care in both England and Wales (which had been quite similar to the 1996 Scottish procedure) have been revised to take account of changes in policy and practice. The new procedure in England requires local authorities to appoint a complaints manager and introduces new timescales for dealing with complaints, a requirement to record all complaints, including informal or first level complaints (for further discussion of this, see chapter six) and to 'facilitate' advocacy services for complainants (Department of Health 2006a).

In consultation papers and draft regulations it was proposed in England that the complaints review committee would be abolished and replaced with an independent 'second tier' review body, the Commission for Social Care Inspection (Department of Health 2004). However this idea was not brought

into the final regulations and the complaints review committee remains as the second tier review body (Department of Health 2006), although it is now proposed that reviews of social care and health complaints in England should be heard by a merged Commission for Social Care Inspection and Health Care Commission from 2009 (Department of Health 2006b). In Wales however second tier reviews will be held by a body which is entirely independent of local authorities (Welsh Assembly Government 2005). For a discussion of these changes, see Gulland (2006).

Recent changes to health complaints procedures

There are some parallels between social care and health complaints and there have been some indications that procedures should be moved closer together, although in practice this has not yet happened.

Until recently health complaints procedures were similar to the community care complaints procedure. Health authorities, trusts and primary care services were required to establish complaints procedures, based on national guidelines but leaving some room for local variation (Wallace and Mulcahy 1999, p5). The guidelines provided for a first stage 'local resolution', which was intended to encourage informal resolution of complaints. A second stage involved an independent review panel but was not automatic as it required the agreement of a convener before it could go ahead.

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Changes to the health complaints procedure were considered necessary after research showed that there were problems with the way in which this procedure operated (see below for further discussion of this research).

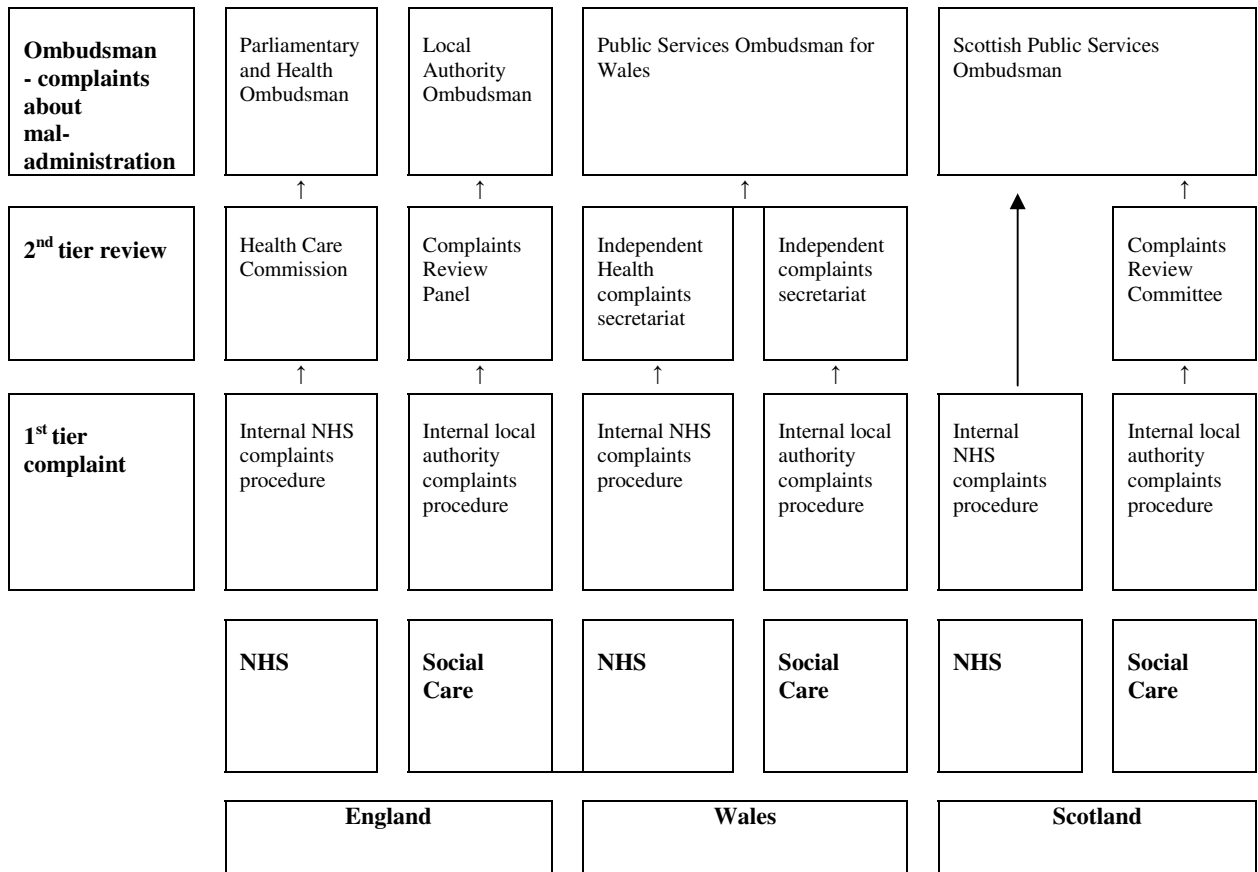
The Scottish Executive's proposals to change the health complaints procedure in Scotland were described in a consultation paper issued in 2003, which recommended abolishing the 'independent review' stage of the procedure (Scottish Executive 2003b). Amongst those who responded to the consultation there was a widespread preference for complaints going straight to the Ombudsman after a first stage investigation by health authorities (Scottish Health Feedback 2003). This model was adopted and was introduced in April 2005 (Scottish Executive 2005a), leading to an increased number of cases about health services going to the Ombudsman, doubling from 321 in 2004/5 to 732 in 2005/6 (Scottish Public Services Ombudsman 2006a).

In England the revised health complaints procedure was introduced in July 2004 and is outlined in the National Health Service (Complaints) Regulations 2004, following the proposals in Department of Health (2003). The new procedure moves the independent review stage from the health authorities to the Healthcare Commission. If the complainant is unhappy with the result of this review, and considers that there has been maladministration, he or she can make a further complaint to the Health Service Ombudsman. Early indications suggest that the move to independent reviews has been popular with complainants, with the number of requests for reviews increasing dramatically since the system was reformed (Healthcare Commission 2005).

The Welsh health complaints procedure was revised in 2003 and has been developed with a strong focus on advocacy, provided by strengthened Community Health Councils. The second tier review stage has a review secretariat which is independent of the NHS. The patient has a right to refer his or her complaint to an independent lay reviewer, who then decides if a review secretariat hearing is appropriate (Welsh Assembly Government 2003). This is similar to the previous system where the patient could ask for the complaint to be reviewed by a 'convener' who would then decide whether a review hearing was appropriate. It differs in that the reviewer and the review panel are independent of the NHS. Although the previous NHS conveners were independent there was a concern that complainants did not always perceive them to be so (Mulcahy 2003, p137). Another feature which should improve the public's perception of its independence is that the administrative arrangements for setting up hearings are separate from the NHS body. Figure 2 summarises these changes.

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Figure 2 First-level complaints and second-tier reviews of health and social care in England, Wales and Scotland*



* Figure adapted and updated from Gulland (2006)

Research on complaints

Research on community care complaints

Very little research has been carried out on community care complaints and there is also very little data available from official government statistics. Some research was carried out on community care complaints procedures in the early 1990s, mostly in England (Coombs and Sedgewick 1998, Dean *et al*

1996, Preston-Shoot 2001, Simons 1995). Coombs and Sedgewick and Simons look at users' experiences of community care procedures in particular local authorities, while Preston-Shoot summarises the issues arising from a range of research projects. Dean *et al* compare procedures across local authorities and Simons also includes an analysis of annual reports on social work complaints. The Office of Fair Trading's report on care homes includes a section on complaints about residential care, although this is primarily about private providers rather than about local authority responsibilities (Office of Fair Trading 2005).

Dean *et al*'s research is based on a telephone survey of English and Welsh social services departments, followed up by observation of the operations of Review Panels (the equivalent of Scottish Complaints Review Committees). The telephone survey shows that, at this early stage of the implementation of the new procedures, recording of the details of complaints was very patchy (p341). The research on Complaints Review Panels focuses on the nature of the complaints and how the panels view their role. The findings indicate that, at this early stage in the development of the procedure, this role was not clear and not consistent across authorities (Dean *et al* 1996). More recently, Ferris has looked at the operation of the complaints review panel in England. Although this research has not yet been published, a recent article by Ferris suggests that complaints review panels in England still vary from one local authority to another but that, despite this variation, they are better than the alternatives under consideration in 2005 (Williams and Ferris 2005).

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Preston-Shoot's more recent paper reviews a range of individual research projects on community care complaints. His focus is on the experiences of users of the complaints procedures and on proposals in 2000 to change the procedure used in England (Department of Health 2000). His review of users' experiences shows that there is a lower level of complaints than might be expected, given the levels of dissatisfaction that users report, that many users of community care services are 'vulnerable' and that there is a common experience of lack of information about services, rights and redress mechanisms. Complainants are largely dissatisfied with the mechanisms that are available and there is a perceived lack of independence in the procedure (Preston-Shoot 2001).

Coombs and Sedgewick's work is a piece of action research, looking at an advice and advocacy project for users of community care services in a particular local authority. Much of the research focuses on the effectiveness of the service but it also highlights some key concerns about community care complaints procedures and the barriers to using them (Coombs and Sedgewick 1998). They argue that 'legally based arguments' are effective in accessing services but also that using the complaints procedure is 'exhausting and demanding' (p48). A recent report by another local advocacy group confirms some of these findings, showing how an advocacy service, focusing on legal rights, can enable people to access services (Action Group 2002).

Simons looks at three aspects of community care complaints procedures as they were in the early 1990s: an overview of complaints procedures across

England, Wales and Scotland (based on an analysis of annual reports by local authorities); focus groups with people with learning disabilities, looking at how they perceive grievances about services and how they might complain; interviews with people who have used complaints procedures; and interviews with advocacy organisations and social work staff on their perspective of the procedure. Simons' research covers a wide range of issues and his findings show that, at the time of his research, there were many problems with the implementation of complaints procedures (Simons 1995). One of Simons' sources of evidence was local authority annual reports. Local authorities have been required to produce reports on social work complaints since the early 1990s. Simons' research in 1995 shows that these reports varied greatly in terms of the details provided, varying from the 'frankly minimalist' to detailed and well produced public documents (Simons 1995, p28). A more recent piece of research on social work complaints in Scotland was conducted in 2001, under the auspices of the Scottish Complaints Officers Network (SCONe), an umbrella body of local authority officers with responsibility for social work complaints (Charlton 2001). This consists of a survey of all 32 Scottish local authorities with a view to establishing how their complaints procedures operate in practice. This research shows that there is a wide variety of approaches to complaints procedures. It provides detailed information on the management of complaints procedures and how complaints information is used within local authorities. It does not include any research on the perspectives of complainants. My own research in 2003, based on an analysis of Scottish local authorities' annual reports, shows that, in Scotland at least, little has changed since 1995. Of the 32 local authorities, only 22 produced an annual report, varying in length from one page to

twenty four pages, a further four were able to produce basic statistical data on request, one produced a report on complaints review committees only and five were unable to produce any data on complaints (Gulland 2003, p28).

Although there has been very little research on complaints procedures for community care, there has been considerable empirical research on users' views of the services they receive (or do not receive). Some research has focused on home care (eg Accounts Commission for Scotland 2001, Curtice *et al* 2002, Davis *et al* 1998, Innes *et al* 2005, Macdonald 1999; Macdonald 2004, Nuffield Community Care Studies Unit 2002, Oldman and Quilgars 1999, Parry *et al* 2004, Rummery 2002, Tanner 2001) while other studies have looked at users' perceptions of residential care (eg Curtice *et al* 2002, Dewar *et al* 2001, Netten *et al* 2001, Office of Fair Trading 2005).

This research shows that there is much dissatisfaction with services and that people find it difficult to complain. It also shows that service users do not always understand the basis on which decisions are made and are not clear what, if any, 'entitlements' they have or who is primarily responsible for the services they receive. Service users do not always understand the distinctions between the responsibilities of local authorities and health authorities, or the different functions within these. Neither do they understand the basis on which financial assessments are made. Recent research on the policy of free personal care suggests that people are particularly unclear about the way in which this works (Bell and Bowes 2006, Scottish Parliament 2006).

Lack of knowledge of how systems work is a theme which runs through most of the research on citizen redress and is not unique to community care (see below). It is not always a lack of knowledge of the redress mechanisms as such which acts as a barrier to taking action so much as a lack of knowledge of the substantive rights to services that people have and who is responsible for providing them (Adler and Gulland 2003). Although this can mean that people are unaware that they may be entitled to services, this lack of knowledge can also lead people to believe that they have rights where no such rights exist (Patients Association 2005, Scottish Parliament 2006). Research on other redress mechanisms is discussed below.

Research on citizens' grievances

During the late 1980s and 1990s a variety of studies on complaints was published but few of these had much to say about social work complaints procedures specifically (Birkinshaw 1994, Leabetter and Mulcahy 1996, Lewis *et al* 1987, Lewis and Birkinshaw 1993, Mulcahy *et al* 1996, Williams and Goriely 1994). Much of this research relates to the period before the implementation of the National Health and Community Care Act (1990) and the blossoming of complaints procedures following the Citizen's Charter initiatives of the 1990s.

More recent research on redress mechanisms includes the 'Paths to Justice' studies (Genn 1999, Genn and Paterson 2001) and their follow-up studies (Genn *et al* 2004, Pleasance *et al* 2002, Pleasance *et al* 2004). These studies are concerned primarily with 'legal' action and so do not focus on complaints

mechanisms as such. They do however have a great deal to contribute on people's attitudes to redress mechanisms generally, particularly as, Pleasance *et al* argue, complaints mechanisms often operate 'in the shadow of the law' (Pleasance *et al* 2004, p1). However, a recent report by the National Audit Office (2005) takes a wider view of redress and includes complaints mechanisms in its overview. Research conducted by Adler *et al* (2006) looks at grievances against public bodies although not at the mechanisms for resolving them.

Other research focuses on specific redress procedures, for example, social security (Dalley and Berthoud 1992, Huby and Dix 1992, Kempson *et al* 2004, Sainsbury and Eardley 1991), tribunals (Genn *et al* 2006; for an overview of research on tribunals see Adler and Gulland 2003), education (Harris 1997, Moore 1994, Scottish Consumer Council 2006) homelessness applications (Cowan and Halliday 2003) and health complaints (Allsop and Mulcahy 1998, Anderson *et al* 2000, Coyle 1999a and 1999b, Lloyd-Bostock and Mulcahy 1994, Mulcahy and Tritter 1998, Mulcahy 2003, Posnett *et al* 2001, Scottish Executive 2003, Wallace and Mulcahy 1999, Xanthos 2004).

Much of the research literature on grievances concerns formal mechanisms: courts, tribunals and formal appeal procedures. Despite the apparent dissimilarity in their subject matter, there are many issues which run through all the research discussed above: why people do or do not take action to resolve problems, people's understanding of the legal and administrative framework in which their dispute is situated, the role of advice and advocacy, the accessibility of redress mechanisms and the barriers which

prevent people from pursuing grievances. However, some of these studies have also stressed that people respond to different problems in different ways: both the nature of the disputes and the redress mechanisms available affect people's willingness to take action to resolve their problems (Adler *et al* 2006, Genn 1999, Genn and Paterson 2001, Pleasance *et al* 2002, Pleasance *et al* 2004).

Recent policy documents on citizen redress have emphasised the importance of 'proportionate dispute resolution', so that people's problems can be resolved 'quickly and cost effectively' (Department for Constitutional Affairs 2004, p6), suggesting a move towards more informal redress mechanisms. It could be argued that the community care complaints procedure, with its informal components, is 'proportionate'. It is useful therefore to look at research on similar mechanisms in other fields. At first glance the problems and procedures most similar to community care are those concerned with health.

Research on health complaints

Apart from procedural similarities, 'entitlement' to health services is similar to entitlement to social work services – it is not based on an absolute right to services but is constrained by a combination of professional discretion and rationing based on available resources. In most cases, despite efforts to encourage a market in health and social services, the state provider is effectively a monopoly. Another similarity is in the personal relationship which is built up between the 'user' of the services and the provider,

potentially making it difficult for the user to complain, because of the danger of upsetting this relationship. In health services this is particularly so in the case of primary care.

A considerable amount of research on health complaints was conducted in the mid 1990s, revealing much about the perspectives of those who use the NHS complaints procedure and those who do not use it as well as those on the receiving end of complaints (Allsop and Mulcahy 1998, Anderson *et al* 2000, Coyle 1999a, Lloyd-Bostock and Mulcahy 1994, Mulcahy and Tritter 1998). More recently, reviews of NHS health complaints procedures in England, Wales and Scotland stimulated a further batch of research (Department of Health 2003, Mulcahy 2003, Posnett *et al* 2001, Scottish Executive 2003, Wallace and Mulcahy 1999).

This recent research focuses on two particular issues: the difficulties of ‘local resolution’ as a means of dealing with health service complaints and the status of ‘independent reviews’. It appears that complainants are often unhappy with a system which requires them to make their initial complaint to the person (or part of the organisation) they perceive to be the problem and questions the assumption that local and informal is best. Following this research, the procedures for health complaints have been changed in England, Wales and Scotland (see above).

Differences and similarities between health and social care complaints

There are many parallels between the issues that arise in health complaints and in complaints about community care and for many potential

complainants there will be overlaps between the services they receive from health and social care authorities. This has been recognised, particularly in a recent report by the Health Services Ombudsman for England, which says:

Many of those who receive both services are elderly, frail or suffer from long term, disabling conditions. Complaints can arise about both health and social services or about how they have worked (or not worked) together and it is not always clear to service users which organisation is responsible for the services they receive. ... it is evident that cross-boundary complaints have often been handled very poorly.

(Health Service Ombudsman for England 2005, p 6)

The Health Services Ombudsman criticised the Department of Health for failing to take the opportunity provided by the changes to health and social care complaints to improve co-ordination between the two systems (Health Service Ombudsman for England 2005, p8). This report was written while the social care complaints regulations were still in draft form and the final version does include more detail on co-operation between the two systems (Department of Health 2006a).

The criticisms by the Health Services Ombudsman and the revised proposals by the Department of Health in England recognise the potential for overlap between health and social care complaints. This potential for overlap is based on the assumption that many people are users of both services and that there are many times when social care and health assessments and services are, or should be, provided in a co-ordinated way. However, it has also been noted that this narrowing of the gap between health and social care runs the risk of 'remedicalising' care services, unravelling years of campaigning for recognition of the 'social model of disability' (Glendinning and Means, 2006, p 25).

Other ways in which health and social care complaints are similar relate to the way in which services are provided. As described above, people have very few rights to community care services. Similarly people do not have rights to health care services. Services are provided, in both cases, under a system of restricted budgets with professionals acting as gatekeepers and assessors of 'need'. Another similarity is that, in many but not all cases, service users have an ongoing relationship with the professionals involved. This makes complaining difficult, for example if the complaint is about a GP, a home help or a person providing intimate care in a long term residential setting such as a hospital or care home. Potential complainants are often vulnerable because of health problems, or impairments and there may be emotional issues connected to a sudden change in family circumstances. Potential complainants in both fields are very diverse. Users of health services include people with severe or chronic health problems, very young and very old people and people with mental health problems and physical impairments. However, they also include people who have a one off problem with accessing health services for a short term or minor health problem. Similarly, although by definition community care service users have health problems or impairments, they may be long term users of services or they may have contacted social work services for the first time because of a recent crisis or short term problem.

Many complaints about health services are made by relatives rather than patients, often because the patient has died, or is unable to complain on their own behalf because of illness or complaints may be made by parents on

behalf of children (Mulcahy 2003, p86). Health complaints are often made about one off encounters (for example treatment in hospital) after the event has finished and often after the patient has died (Mulcahy 2003). Although the research evidence on community care complaints is patchy, there appear to be many parallels with health complaints. Complaints about community care services are also more likely to be made by relatives than by service users directly (Simons 1995, Preston-Shoot 2001). Of course it is not always the case that the needs of service users and their relatives are the same (Parker and Clarke 2002, Watson *et al* 2004). Simons makes the point that it is not often clear on whose behalf the relative is complaining. A relative's complaint may be as much about their own needs as the service user's (Simons 1995, p19). There may be similarities with health complaints here. Mulcahy argues that many health complaints may be as much about the relative's concerns as the patient's (Mulcahy 2003, p86)

Complaints about health care are more likely to be made by women than by men, possibly reflecting women's role as 'carers' and their greater use of health services (Coyle 1999a). The research literature does not give a gender breakdown of those who make complaints about community care.

It has been argued that complaints about health care, particularly hospital care, are often 'not instrumental' (Lloyd-Bostock and Mulcahy 1996). Legal disputes about health (ie those where an action has been taken through the courts) are more likely to concern quality of care and whether or not there has been medical negligence than the provision of services (Mulcahy 2003). However recent high profile cases, for example the case regarding the

prescribing of drugs for the treatment of cancer, may suggest that this is changing. Miller *et al* (2004) argue that cases concerning ‘access to health care and treatment’ may well be brought under human rights legislation in Scotland.

While the research evidence does not answer the question of what people complain about in community care, Simons and Preston-Shoot both argue that most complaints are about ‘allocation of resources’ (Simons 1995, Preston-Shoot 2001). The implication is that people complain in order to achieve some reallocation of these resources. There is no indication in the research literature that community care complaints mirror health complaints here; health complaints are often made after the fact and sometimes after the ‘service user’ has died. There will of course be some exceptions to this. One exception may be complaints about residential care, where the issues may be more similar to those in hospitals (Harding 2005).

These questions about what people complain about and what they want to achieve by complaining are closely linked to the purpose of a complaints procedure. The wider socio-legal debate on administrative justice and on the purpose of grievance mechanisms can help to illuminate this.

Socio-legal research on administrative justice

Socio-legal research has considered the value and effectiveness of different types of redress mechanism. Research recognises that different mechanisms

can serve different purposes and that the standards used to evaluate them depend in part on these different purposes.

Harlow and Rawlings show that the philosophy behind the Citizen's Charter (which informed the development of the community care complaints procedures) gives complaints mechanisms a 'dual function': the primary function is to provide information to managers, while the secondary function is to provide a means of redress for users of the system (Harlow and Rawlings 1997, p405).

Models of administrative justice

The problem of the purpose of systems of redress has been considered by a number of writers in terms of 'models of justice'. Mashaw (1983) initially described three models of justice, which he termed 'moral judgement', 'bureaucratic rationality' and 'professionalism' (p25). Mashaw was interested in the forms of criticism directed at the American social security system, which showed that each of these three perspectives provided a different evaluation of what the system ought to do and what was wrong with it.

These models have been developed by Adler (2003 and 2006) to include 'managerial', 'consumer, and 'market' models. Adler also prefers the term 'legal' to 'moral judgement' as he argues that this better reflects the values inherent in it. There is some debate in the literature on the extent to which Adler's three additional models are distinct from each other and also the extent to which they overlap with Mashaw's original models. Halliday

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argues that the managerial model is an extension of Mashaw's bureaucratic rationality, while the market model can be subsumed under 'consumerism' or 'managerialism' (2004, pp119-124).

Mulcahy and Allsop (1997) use a similar system of models, specifically to look at grievance mechanisms, in particular health complaints, although they talk about a 'grass roots' model and appear to merge the managerial and consumerist one.

It is important to remember that the models described by Mashaw and adapted by Adler and others are normative models, concerned with *decision making*. In this thesis I intend to use the models to explore *redress mechanisms* which may be available after a decision has been made (or not made). Before moving on to redress mechanisms, however, it is useful to consider how far the different models of decision making might be found in community care provision.

The discussion above on the legislative basis of community care and the debate on rights to independent living shows that the legal model of justice may not be very prominent in community care decision making. Braye and Preston-Shoot approach the question of legal rights from the point of view of social work values, arguing that there are conflicting pressures from 'technical rationality', based on a legalistic approach to decision making, from 'morality and ethics', based on 'doing the right thing' in terms of professional values and from 'human rights' which is based on a wider understanding of the legal position, taking into account users' view and

challenging injustice (Braye and Preston-Shoot 2006). Although their analysis is concerned primarily with social work in relation to children, similar pressures arise in relation to community care. This conflict is also recognized by Roche (2003) who argues that an over-emphasis on legal rights can lead social workers to act defensively. However both Braye and Preston-Shoot and Roche argue that these conflicts can be resolved with a reorientation of professional values to incorporate legal rights.

The professional model can be seen in community care services to the extent that decisions about community care services require an element of 'professional judgement' on the part of social workers or others who make assessments. Decisions rely on the professional knowledge of the care manager, as well as taking account of rules or procedures. In addition, the availability of services is limited by budgetary constraints. Mashaw suggests that this is inherent in the professional model: 'The professional must at least tailor advice or treatment to his or her own resources' (1983, p27). The professional model is one which has come under particular fire in recent years, from both the users lobby which has pushed for a more rights based approach (Cooper and Vernon 1996) and from the managerial perspective, which criticises it for not having sufficient awareness of resource constraints or efficiency (Clarke and Newman 1997, p15).

The idea of managerialism has permeated public services since the 1980s. In community care services this has led to a greater focus on resources and the need to 'manage' them, some argue at the expense of service users' needs (Chevannes 2002). The characteristics of a managerial model of justice, for

example the use of performance indicators, audit etc (Adler 2006), can be found in community care services as much as elsewhere in public services. The recent establishment of the Social Work Inspection Agency and the Scottish Commission for the Regulation of Care and the publication of the National Care Standards (as described above) are examples of managerial approaches to community care service provision.

There has also been a movement towards ‘consumerism’ in community care services. The 1990s reforms placed a greater emphasis on user involvement and this has been followed more recently by the focus on choice in public services (Clark *et al* 2005), while the Green Paper on Social Care has the title ‘independence, well-being and *choice*’ [my emphasis] (Department of Health 2005). Critics have argued that consumerism does not really work in public services, because people do not have real choices and the relationship between the ‘consumer’ and the state is not like that which exists in a market (Clarke *et al* 2005). In particular, because public services do not operate like markets, with consumers using cash as the means of influencing their choices, people have to use other forms of ‘capital’ in the form of skills or knowledge to act as consumers of public services (Clarke *et al* 2005, p172). This is perhaps where complaints procedures come in – people can use their knowledge of how systems work not only to make choices but also to complain if these choices are not met.

Of course not everyone is a willing ‘consumer’ of social work services. The state in the form of the local authority has power over individuals. Some potential service users may be unwilling to use community care services for

fear of being 'put in a home' (Curtice *et al* 2002), or losing what independence they have (Rummery 2002). Users of mental health services may reject the 'services' that they are offered or forced to accept (Beresford 2005) and disabled parents may fear that they will be labelled as poor parents and that their children may be taken from them (Rummery 2002). This power relationship limits the extent to which users of community care services can see themselves as 'consumers'.

The bureaucratic model can be seen to apply to community care to the extent that, although social workers are expected to use professional discretion in making assessments, they are also subject to local guidance and policies of a more bureaucratic nature (Mandelstam 2005, Rummery 2002).

Markets may also play a role in community care, to the extent that local authority needs assessments for community care can be, in theory, for the purchase rather than the provision of services. Services may be provided by independent and in, some cases, profit-making organisations. This means that grievances concerning the quality as opposed to the quantity of services may be addressed, at least in theory, via market mechanisms. In other words, service users can use the option of exit to move to a different provider if they are unhappy with the quality of services they are receiving. Recent legislation permitting direct payments of cash, rather than services, opens up the possibility of the community care 'client' as an independent consumer in the market place. The role of the market in community care will continue to be constrained by the fact that initial assessments of need depend on a

professional assessment and that purchases of services (or cash payments) continue to be resource limited.

Models of justice and redress mechanisms

Adler and others argue that the different models of administrative justice are associated with different types of redress, with internal complaints procedures, such as the one under discussion, primarily typifying the consumerist model (Adler 2003, 2006). Complaints procedures can also provide information to managers, reflecting the priorities of the managerial model (Mulcahy and Allsop 1997). The legal model is characterised by independent appeals to courts or tribunals, while the bureaucratic model would rely on internal reviews of decisions (Adler 2006). Within the professional model the primary means of dealing with disputes would be a second opinion or a complaint to a professional body (Adler 2006). Redress in a market model consists primarily of the right of 'exit', ie the freedom to choose another provider.

In this thesis I consider the extent to which the community care complaints procedure reflects these different models of justice. The models and their different modes of redress as laid out by Adler (2006) suggest that complaints procedures would be characteristic only of a consumerist model or possibly a managerial one. However, since the complaints procedure is the only redress mechanism available to community care service users it is possible that some complainants may approach it with the values of other models of justice in mind. Those who manage the complaints procedure may

also approach it with values which reflect different models of justice. Dean *et al*'s 1996 research indicates that (at that time) different local authorities interpreted the guidance on complaints procedures in different ways, reflecting professional, managerial, consumerist and legalistic approaches (Dean *et al* 1996).

The question of whether a redress mechanism is appropriate or fair depends to an extent on its purpose. The discussion above shows that a complaints procedure could have different purposes and could be characterised as legal, bureaucratic, professional, managerial or consumerist. Most research in the socio-legal field has tended to concentrate on legal or bureaucratic values, while managerial and consumerist principles run through much of the policy literature on public services and on community care in particular.

Conclusion

This chapter has looked at the legal basis of community care services, recent policy developments and at research on grievance procedures. While there has been very little research conducted on community care complaints specifically, more general research on the experiences of community care service users suggests that there is much that people may have to complain about. The research evidence from other grievance procedures suggests some areas which are relevant to complaints about community care. The issues raised in this literature are used as a backdrop to the main chapters in this thesis: the different purposes of grievance mechanisms, why people do or do not take action to resolve problems; people's understanding of the legal and

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administrative framework in which their dispute is situated; the role of advice and advocacy; accessibility of redress mechanisms; informality and formality and the meaning of independence in redress mechanisms. The purpose of a redress mechanism is crucial to any assessment of its effectiveness. The socio-legal debate about the purpose of redress mechanisms provides a useful framework for considering the effectiveness of community care complaints procedures.

Debates surrounding community care policy also emerge in the context of complaints: the debate about needs and rights to services; user involvement in service provision; the role of direct payments; and the issues created by contracting out of community care services. The literature on these issues forms the background to the empirical data in the thesis.

Chapter three

Methodology

Research Design

The research builds on an initial investigation, carried out for an MSc, into social work complaints procedures in Scotland. This helped to identify a number of areas where further research was needed (Gulland 2003). The present research was conducted in two local authorities in Scotland and attempted to gain an in-depth picture of what happened in each authority, drawing evidence from a range of sources. The main focus was on the experiences and views of those who had used the complaints procedure. A separate study was carried out in the same local authority areas to gain the views of service users who had not necessarily used the complaints procedure. This chapter sets out the design behind the research, describes some of the practical and ethical issues involved in carrying it out and discusses how the analysis was conducted.

Research questions

Chapter one sets out the research questions for this study:

- What is a complaint?
- What do people complain about and can complaints be usefully divided into those which are about local authority decisions (outcomes) and those which are about the way in which people are treated (procedures)?
- What is the difference between an 'informal' complaint and a 'formal' complaint?
- What do people want from the complaints procedure?
- What happens to people's complaints?
- How effective is the complaints review committee?

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- What stops people from using the complaints procedure or from following it through to the end?
- What does it *mean* to make a complaint? How does the word 'complaint' affect people's views of the process?
- How does a complaint differ from an 'appeal' or something that needs to be 'sorted out' and should we have different procedures for dealing with them?

These questions were based on questions that had arisen from the MSc research and were developed in response to exploratory research, literature in related fields and issues that arose in the course of the research. The original research questions for this PhD had also included a proposal to consider the apparent variation in patterns of complaints between local authorities. This was amended as it became clear that the study could not answer this question (see discussion of case studies below).

Case study research

The principal approach in this research was comparative case studies of complaints procedures in two Scottish local authorities. This design was chosen because it would provide in-depth material about complaints procedures in particular local authorities, while allowing a comparison to be made across authorities on issues which appeared to show variation. Case study research is not intended to provide results which can be 'generalised' to a population in a statistical sense. It is argued that case studies can, however, be used to produce analytic generalisation, where the findings can be used to help the understanding of other cases (Yin 2003).

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Yin offers the 'modest advice' that two (or more) cases are usually more powerful than one (2003, p53). A key finding of the MSc research was that there was considerable variation in the way that local authorities defined different aspects of the complaints procedure and in the way that they classified complaints. It was clear from this research that there would be benefit in exploring these differences in greater depth. A comparative case study approach would enable this to be done in particular authorities while retaining the advantages of comparison across authorities. The MSc research used local authority documents as the sole source of evidence. While these provided useful information about complaints in some local authorities, it was not possible to use them to compare patterns of complaints across authorities because of the disparity in definitions and classification of complaints and the lack of consistency in reporting complaints in annual reports.

An alternative approach would have been to conduct a survey of all Scottish local authorities or of a sample of all authorities. This approach was rejected because it would have been very difficult to conduct quantitative research on complaints in Scotland without further consideration of the issues relating to the classification and definition of complaints.

The research is informed by socio-legal literature on complaints. It was intended that this would provide the theoretical framework and that the research would not set out to evaluate specific complaints procedures.

Data Collection

The research was carried out in three stages, outlined below: exploratory research; case study research; focus groups.

Exploratory research

The research described here was based on initial findings from the previous research (Gulland 2003) which provided background information on community care complaints in Scotland. A further exploratory stage was used to refine the research questions and clarify whether there were other issues which ought to be considered. This involved discussions with organisations of users of community care services, voluntary organisations which provide advice and advocacy services and statutory bodies with an interest in community care complaints mechanisms: the Scottish Commission for the Regulation of Care, the Scottish Executive, the Social Work Inspection Agency and the Scottish Public Services Ombudsman. The details of interviews carried out for this stage are shown in table 3a below.

Table 3a Exploratory interviews

Source	Interviews conducted
Complaints officers in other authorities (as part of access negotiations)	Interviews with two complaints officers. Attendance at a complaints officers' network meeting to provide feedback on the MSc research and seek further views from complaints officers.
Scottish Commission for the Regulation of Care	Interview with complaints manager. Attendance at users' forum.
Scottish Executive	Interviews with three staff members. On each occasion I interviewed the person responsible for social work complaints. Staff changes during the course of the research meant that this involved three different people.
Scottish Public Services Ombudsman	Two interviews with a Deputy Ombudsman – one at an early stage and one towards the end.
Social Work Inspection Agency	One interview with social work inspector.
Voluntary organisations	Interviews with staff of three organisations: a carers' organisation; an organisation concerned with older people; and a self-organised group of disabled people.

*These interviews were not tape recorded or analysed in full, and provided background information only. Most took place before the main data collection period, while some were conducted later on in the process.

Case studies

Selection of case study authorities

One of the aims of my previous research had been to consider which local authorities might make appropriate sites for conducting further research. It was clear that it would not be possible to identify authorities which were 'typical' or statistically representative of all Scottish local authorities. Writers on case study research emphasise the importance of making considered

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choices when identifying sites for case studies, in order to maximise their usefulness (Blaikie 2001, p224). Stake argues that, since cases cannot be representative, one should select cases 'from which you can learn the most' (Stake 1998, p86). Yin argues for multiple case study designs over single cases (Yin 2003).

Scottish local authorities are different in several ways and they cannot be easily categorised as being of different types so it was not a straightforward case of choosing one example of each. The original criteria which were considered for choosing case studies included selecting those authorities which appeared to have different patterns of informal and formal complaints, authorities which appeared to have interesting patterns of types of complaints and authorities which held sufficient numbers of complaints review committee hearings. Most local authorities hold fewer than two hearings per year and many hold none at all (Gulland 2003).

Taking into account the ways in which local authorities appeared to vary and the practicalities of conducting case study research, my initial plan was to conduct case studies in four authorities, each of which would provide a different focus. In practice, the time it took to negotiate access meant that my study was finally restricted to two authorities.

It became clear, once I started talking to complaints officers, that the criteria I had considered important for selection were largely meaningless. The authorities that said they recorded informal complaints were very quick to backtrack on the meaningfulness of the distinction between informal and

formal complaints (see chapter six for a fuller discussion of this). Similarly, the distinctions between authorities which appeared to have received different types of complaints seemed on closer inspection to be more the result of differences in classification and definition than the result of any ‘real’ differences. As I had already speculated from the previous study, and the further I discussed the matter with complaints officers, the more obvious it became to me that these distinctions were too vague and that, even if they meant something, the pattern of a particular year was likely to reflect a particular problem with some aspect of social work services in that year, rather than anything to do with the way in which the complaints procedure operated.

A more useful approach was to start with those authorities with a relatively large number of complaints, in order that they would yield sufficient interviews to make the study worthwhile. The authorities with larger numbers of complaints also tended to be those in which the complaints review committee had sat on a number of occasions. I had also intended to approach a relatively small authority which appeared to have an interesting pattern of complaints and possibly a ‘corporate’ authority (where the social work complaints procedure was incorporated into a wider local authority procedure). In the end, time pressures made it impossible to include these two types of authority in this study.

Access negotiations

Access was negotiated in the first instance via complaints officers. I had made initial contact with most of the complaints officers in Scotland during

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the previous research. As a result I had discussed my proposed research with individual complaints officers and with their umbrella group, the Scottish Complaints Officers Network (SCONe). There were some initial difficulties with negotiating access. Some members of SCONe had expressed concern about my methodology, specifically relating to: selection of local authorities for case studies (which they felt would not be representative); issues regarding data protection (a concern that my proposed methodology would breach data protection requirements); reactivated complaints (that my research would stir up old issues); time and effort (that my research would be too burdensome on complaints officers) and feedback (a request to comment on the entire thesis). After some protracted negotiation with the office bearers of SCONe, they agreed that it would not be possible to reach an agreement that would meet the concerns of all their members and indeed that it would not be necessary since some of their concerns related to small details which would need to be negotiated with local authorities individually. Once we had resolved these issues, SCONe approved my research in principle and agreed that I should negotiate the detail with participating local authorities. These negotiations delayed the data collection process by approximately four months.

Once I had obtained the agreement of SCONe to go ahead, I approached six authorities. After gaining initial agreement from individual complaints officers, formal access was sought through principal social work officers, and in the case of the larger authorities, research officers. Two refused access at the initial stage, on the grounds of staffing shortages. A third authority was approached and the complaints officer agreed in principle to me going

ahead. However, the principal social work officer refused further access on the grounds that the authority was too small and that it would require too much staff time. A fourth authority agreed in principle. However, staffing problems meant that the start date was continually delayed until it became too late for it to be feasible to use this authority.

This left two authorities which had granted access and were able to provide the necessary staff resources for the research to go ahead. As a result of the delays and difficulties in negotiating access, my original criteria for choice of authority had ceased to be the main focus. These two authorities provided useful examples for a case study approach because, although they did not differ on the lines I had originally planned, they differed in other interesting ways and still enabled some comparison and the possibility that any findings from both studies would lead to more persuasive conclusions than those arising from just one (Yin 2003, p53). Although the authorities were different in population size and varied both geographically and demographically, the proportion of complaints in relation to population size was roughly similar. Each authority received enough complaints each year to allow a large enough sampling frame and, in recent years, each had held several complaints review committee hearings. This meant that it would be possible, at least in theory, to talk to people whose complaints had reached this level.

Both authorities had complaints officers who appeared to be very committed to their work and believed strongly in the value of a complaints procedure. They were also interested in and supportive of my research, which made the access negotiations easier. It could be argued that, in this respect, they

represented ‘critical cases’ (Yin 2003) compared to Scotland as a whole. The MSc research had revealed that some authorities appeared not to take complaints very seriously. This might imply that any difficulties encountered by complainants (or non-complainants) in the chosen authorities would be likely to be even greater in some other local authorities.

The major difference between the two authorities was in the way that the complaints procedure was set up and the role of the complaints officer. In the larger authority, Duncairn,⁸ the complaints procedure was ‘devolved’ to the local area offices and the complaints officer’s role was mainly that of overseeing the complaints process and ensuring that the guidelines were followed. In the other, Kinraddie, the procedure was more centralised and the complaints officer took a more active role in discussing complaints with complainants and assisting them in taking the complaint forward (see chapter four for further details).

In each case study authority I interviewed the complaints officer and people who had made complaints. Additional information collected for each authority differed, either because it was not available in both or because I deliberately sought out information from one that was not necessary in the other. In Duncairn I interviewed four senior social work managers, because much of the day to day working of the complaints procedure was devolved to area managers and it seemed important to include their perspectives on its

⁸ The names of the two local authorities, Duncairn and Kinraddie, are pseudonyms, taken from fictional places in the trilogy *A Scots Quair*, by Lewis Grassie Gibbon. The choice of these names does not imply any geographical association with any particular part of Scotland.

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operation. I did not interview social work staff in Kinraddie, because the complaints procedure there was more heavily centralised, with the responsibility lying wholly with the complaints officer. In Kinraddie I also interviewed the member of staff responsible for organising complaints review committees. I did not do this in Duncairn because it turned out that very few community care complaints had reached the complaints review committee in recent years and none of the individual interviewees had reached this stage in the process. Table 3b summarises the interviews conducted in each authority.

Table 3b Interviews conducted in the two local authorities

	Duncairn	Kinraddie
Individual complainants	20	16
Complaints officer	1	1
Social work managers	4	0
Person responsible for arranging complaints review committees	0	1

In both cases I interviewed the complaints officer three times. The first two interviews were exploratory and were part of the access negotiations. These exploratory interviews were not tape recorded and were used for background information only.

Documentary sources

For each authority I gathered documentary information on the operation of the complaints procedure, eg guidance to staff, information for the public, reports and statistics on complaints in recent years. As I had discovered during the previous research, the information which local authorities collect

and publish varies considerably from one authority to another. There was considerably more statistical information available for Duncairn than for Kinraddie. In particular, the complaints officer in Duncairn was able to provide me with a complete database of complaints made during the previous eighteen months or so, which provided detailed information on all complaints received and how they had been dealt with (for further discussion of this, see chapter five).

Demographic information was also collected on each authority (eg population size, community care statistics, information on deprivation). This has not been included in the description of the two authorities (chapter four) because it would enable them to be identified.

Interviews with complainants

Selection of interviewees

In each authority the complaints officer sent a letter, on my behalf, to people who had made formal complaints in the previous eighteen months, inviting them to send back an initial consent form if they wished to take part in the research (see appendix one). The letter contained an explanatory leaflet, an initial consent form and a stamped addressed envelope (see appendices two and three). For a further discussion of the meaning of 'formal' complaint and the difficulties with this definition, see chapter six.

I had agreed with the complaints officers that they would send the letter to the person who had made the complaint, whether that was the service user, a relative or an advocacy agency (a breakdown of respondents is included in

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chapter four). Only those complainants whose complaints had been concluded were included in the mailing. It was planned that the study would look at complaints retrospectively because this would enable it to focus on the point at which the complainant came to the end of the process. There would have been benefits in looking at the process as it happened but this would have been time consuming (complaints can take several months to be processed) and would not have allowed for a focus on the points at which people drop out or continue with the procedure. Complaints officers were also concerned that my involvement during the process of a complaint might be problematic.

The complaints officers also excluded from the mailing complaints relating to service users who had since died, because they were concerned not to trouble their families, and complainants who they had noted as particularly aggressive or violent, in order to protect my safety.

In Duncairn the letter was sent to seventy two people and in Kinraddie it was sent to sixty. In Duncairn, twenty people returned the consent form and I interviewed all of these. In Kinraddie, eighteen people returned the form. I interviewed sixteen; the remaining two were unavailable for interview because of family circumstances. It is difficult to establish how far those who agreed to be interviewed were in any way representative of complainants in general and it might be assumed that this self-selecting sample would be more likely to be made up of people who were dissatisfied with the way in which their complaint had been dealt with. This is discussed further in chapters six and ten. There are many reasons for 'non response' to research

and it is also possible that people from certain types of background would be more likely to respond to my letter than others. Chapter four describes some of the demographic details of the interviewees and discusses the extent to which they reflect the wider population of complainants or potential complainants.

The interviews in Duncairn were carried out between January and March 2005. Those in Kinraddie were carried out between April and June 2005. The timing of the interviews followed the 'replication logic' of multiple case study design (Yin 2003, p47), allowing some analysis and consideration of the findings from the first case before continuing to the second.

Practicalities of interviews

On receipt of the consent form, I contacted most interviewees by phone and, having discussed the research further with them, arranged a time and place for interview. In most cases this was straightforward. In a couple of cases interviews had to be rescheduled because the interviewee was out when I arrived. One interviewee did not have a phone and all arrangements were made by letter.

Most of the interviews were carried out in people's homes, while some were carried out by telephone. One interview was carried out in a social work day centre. This was with a person with learning disabilities and a member of staff was also present, acting as a supporter. The staff member had not been involved in the original complaint, which was about a different social work service. Table 3c summarises the types of interview conducted.

Table 3c Interview type

Interview venue	Number
Face to face – complainant's home	26
Face to face – social work centre	1
Face to face – complainant's workplace	1
Face to face – advocate's workplace	3
Telephone	5

Interviews lasted between half an hour and one and a half hours. All but two of the interviews were tape recorded, with the interviewee's permission, and transcribed in full. Two people did not agree to the interview being recorded. In these cases full notes were taken during the interview and written up immediately afterwards.

Qualitative interviewing

Interviews were semi-structured, based on a topic guide. The topic guide was printed out on index cards used as an *aide memoire*, rather than as an ordered set of questions (see appendix four). A slightly different topic guide was used when interviewing the advocates as I was interested in their experiences of complaints in general, as well as the particular complaint which had generated my contact letter (see appendix five).

This method of interviewing proved to be crucial. Most people wanted to 'tell the story' of their complaint, rather than answer direct questions about 'what happened when'. Some interviewees were surprised that I did not know their history already, although they had been reassured that no information had been provided by the social work department. This meant

that quite a lot of time was spent discussing the background to their relationship with the social work department and the services they received, or hoped to receive, before getting on to the complaint itself. The stories that people told me were often complicated and non-linear. People did not always remember exactly who they had spoken to and when. The complexity of people's stories and their attitudes to the services they received and the ways in which their complaint was dealt with could not have been obtained from more structured interviews or questionnaires.

Most people were very willing to talk at length about the problem they had experienced and how it had been dealt with. Several were keen to show me evidence of the problems they had experienced in the form of the adaptations that had been made to their houses, or in some cases, not made, while others had copious files of correspondence, which they showed me. I declined to take copies of the correspondence on the grounds that I wanted *their* views of what had happened, but in some cases the wording of letters or sequence of correspondence was recorded in the interview and proved useful in understanding their experiences. A small number of interviewees talked almost unprompted for most of the interview, sometimes veering some distance from the topic of the complaint. In these cases it was sometimes quite difficult to get people to focus on those aspects of the complaint that interested me. However, I felt that it was necessary to enable people to tell me what was important to them in order that I could understand the context and to establish trust. I felt that it was only courteous to enable them to talk about what they thought was important, even if it did not appear to have much immediate bearing on my research. However, sometimes, a lengthy

diversion would bring up an important point about the relationship between the complainant and the social work department, an attitude to complaining in general, a problem in the past which had led to a previous complaint, or something which the person had not complained about.

A small number of interviews were more difficult in terms of gaining information. A couple of people with speech impairments had great difficulty speaking and were able to provide information only in very short segments. Two of the people with learning disabilities found it difficult to talk at length about their circumstances. In these interviews the interview was based on a more conventional question and answer format. This meant that it took quite a long time to build up the picture of what had happened and the general background to the interviewee's experience of social work services. These difficulties with communication are also relevant to people's experience of making complaints and this is discussed further in chapter eight.

It was important in this research that the interviewees should feel that they could trust me. At the beginning of each interview, I went over the consent form (see appendix six) and explained that I was independent of the council, that all information would be confidential and that any reporting would be anonymous. A small number of interviewees were suspicious about how I had got their names, despite the letters that I had sent, reassuring them that the social work department had not given me any names directly. However, all were willing to continue with the interviews once I explained my methodology again, although they were given the opportunity at this stage

to opt out if they wished to. This concern about how I had got their names may reflect a general suspicion of how the social work department operates.

Another aspect of establishing trust involved showing respect for interviewees. I made a particular point of ensuring that I arrived or phoned at the time I had agreed. A number of interviewees commented on this as contrasting with the way they were treated by some social work staff, who were notoriously unpredictable in the timing of their visits. This was a cause of some of the complaints (see chapter five).

I had been concerned at the beginning of the research that people might look to me for advice about how to pursue their complaint further or about other issues that had arisen in the meantime. In fact people did not appear to see me as a potential source of advice although many wanted my opinion as to whether or not they had done the right thing. In these cases, I declined to comment but said that I was interested in what their views were.

Interviews with professionals

The interviews with professionals (complaints officers, social work managers, the person responsible for complaints review committees, Deputy Scottish Public Services Ombudsman) were all carried out after the individual interviews with complainants and were based on a preliminary analysis of these complainant interviews. This enabled me to provide some feedback to the professionals on my initial findings and to clarify particular issues about how the complaints procedure worked (or was intended to work) in practice. I also used this opportunity to discuss with them how they

thought the system could be made more effective. I had had informal discussions with both complaints officers and with the Deputy Public Services Ombudsman on previous occasions so had some ideas about what their views were on some matters. The final interviews allowed me to explore these views further. During the interviews with complaints officers I was careful not to breach confidentiality by discussing individual complainants. However, where a particular complainant's story had puzzled me (for example why something had or had not been done about a problem) I described the situation in outline in order to find out what the complaints officer thought should have happened. A copy of the topic guide is in appendix seven. This was used as an *aide memoire* only. In practice, interviews did not usually follow the order of questions in the guide.

Focus groups

The third stage of the research involved focus groups with people who used community care services. Its purpose was to gain a wider understanding of service users' views on complaining and to consider some of the reasons why people do not make complaints. The individual interviews had been carried out with people who had made complaints. It is well understood that complaining is an unusual thing to do: most community care service users do not make complaints. It would have been very difficult to identify people who were 'non-complainants', since community care services do not have the formal systems which would allow access to people who had been refused services, for example in the way that has been done with social security claimants (Dalley and Berthoud 1992, Sainsbury and Eardley 1992, Sainsbury

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et al 1995) or applicants for housing under homelessness legislation (Cowan and Halliday 2003). Instead it was planned that the focus groups would involve users of services (or people who had attempted to get services), who would probably have had some problems in the past and who may or may not have used the complaints procedure.

This stage of the research built on the findings from the individual interviews. The individual interviews had suggested that there is a complex relationship between what the complaint is about, the personal characteristics of the potential complainant and their knowledge of and attitudes to the social work department. This is further complicated by the lack of a shared understanding between complainants and local authorities and amongst local authority staff as to what constitutes a 'complaint' (see chapter six for further discussion of this).

Focus group research allows participants to explore ideas rather than to elicit information on individual experiences. It would not have been sensible to use focus groups to get data on the individual reasons why people do not complain. Instead their purpose was to get people to explore some of their understandings of the ideas which came out of the individual interviews in phase one (Robson 2002, p287). It was recognised that focus group research would not produce data on individual experiences, comparative data on the experiences or views of 'different types of people' (eg along age/class/gender/disability/regional lines) or statistical data on the proportion of 'people who complain'.

Criteria for selection of focus group members

Focus groups were not intended to be, in any sense, representative of all service users, or of the sorts of people who were interviewed in the first stage of the research. 'Purposive sampling' is usually recommended for focus groups, with 'segments' reflecting different categories of research participants (Morgan 1997). The main purpose of having different 'types' of focus group was not to introduce an element of comparison, as this is in any case difficult to do with focus groups (Wilkinson 2004), but because it makes sense for focus groups to be composed of people with some experiences in common, since this encourages exploration of shared understandings (Kitzinger and Barbour 1999, Morgan 1997). Different types of group would potentially enable a more diverse range of experiences to be discussed.

The sampling segments were intended to reflect three 'types' of complainants found in the first stage: older people with disabilities, younger disabled people and carers (see chapter four). As with the individual interviewees, these categories were not straightforward: some members of focus groups were both carers and relatives of other people with disabilities and had disabilities themselves. Not all members of the groups were using social work services at the time, although they all had experience of attempting to get services at some point. The categories are based on the self-definition of the groups, that is, the 'carers' were members of a carers' support group, the 'disabled people' were members of a local disability organisation, while the 'older people' were members of older people's groups (see table 3d below).

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Focus group members were recruited through voluntary organisations. This was felt to be better than attempting to recruit people through local authorities for two reasons: it enabled people who had attempted, but failed, to get services to participate; and the access negotiations did not have to involve lengthy local authority procedures. A disadvantage of recruiting people through voluntary organisations was that they were, by definition, in touch with the organisation, which would itself be a potential source of advice on how to pursue problems with community care services. This might have meant that these groups of people would be more likely to raise issues or complain than those who had no contact with voluntary organisations. However, since the participants were not chosen because they were 'representative' of community care service users as a whole, this was not in itself a problem. In practice, despite being involved with the voluntary organisations, many of the focus group members seemed not to be very knowledgeable about how community care services operated or the mechanisms available for making complaints (see chapter eight).

Several attempts were made to recruit groups in both the local authority areas and recruitment proved to be more difficult than anticipated. Some groups were reluctant to participate because they felt their members 'had nothing to complain about' while another group declined to participate because the organisation felt that its members had been 'over consulted' by researchers and local authorities in the past. This problem of 'consultation fatigue' has been recognised by researchers in the field of disability and has to be respected (Carmichael 2004). The final focus groups consisted of two groups of older people who were users of local authority community care

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services, a group of carers and a group of disabled people. Details of the members of the four groups are summarised in table 3d below.

Table 3d Summary of focus groups

	Focus group one	Focus group two	Focus group three	Focus group four
Local authority	Kinraddie	Kinraddie	Duncairn	Duncairn
members	older people users of social work services	older people users of social work services	carers	disabled people
Status of meeting	as part of regular meeting	as part of regular meeting	after regular meeting	after regular meeting
Age range	over 70	over 70	over 60	Five in 40s and 50s Two over 60.
Numbers female/male	seven women	three women/two men	seven women/one man	five women/one man
Setting	lounge of sheltered housing	meeting room in social work centre	meeting room in carers' centre	meeting room in community centre
Others present	facilitator; note taker*	facilitator; note taker*	none	none

*see discussion below

Running the focus groups

All the focus group meetings took place either during or after a regular group meeting. This had the important advantage of allowing participants with mobility difficulties to attend, since the voluntary organisations had already arranged transport for those who needed it and the venues were fully accessible to people with disabilities. Similarly the carers' group had

already arranged for the care of relatives to be provided. This meant that the groups included people who might normally find attending group meetings difficult.

Discussions were semi-structured to enable a range of issues to be pursued and also to ensure that all participants could take part. I had initially planned to use a focusing exercise (Bloor *et al* 2001) to get people talking about the subject of complaints, using examples of 'typical' problems that people experience and illustrating a range of issues, for example those involving refusal of a service and those involving staff attitudes, drawn from examples found in the individual interviews. Scenarios like this have the advantage that they can concentrate the discussion on an agreed problem. A disadvantage is that they can constrain the discussion by suggesting that this is the kind of thing the researcher wants to know about (Kreuger 1998). The National Audit Office (2005) used focus groups to explore opinions on complaints and asked people generally about how they dealt with dissatisfaction and found that 'scenarios' were useful in getting people to come up with specific ideas about what they might do. Another approach was to use quotations from interviews about why people do or do not complain. Participants were given short quotations on cards and asked whether they had ever felt like that about community care services and/or complaining.

With the two older people's groups I used two different sets of prompts. With group one, I used quotations from what people had said during the individual interviews, giving examples of why people had complained and

why they had not. I passed round cards, each with a quotation in large print, and asked group members to comment on the quotations. This did not work, as, although the quotations were in large print, some group members had difficulty reading them. This became clear very quickly, so I read out the quotations instead. Participants responded to the quotations but I felt that, without any background information about what people had complained about, they got too embroiled in the idea of complainants being ‘moaners’.

I decided to change this approach with group two and, instead of using quotations, started off the group with a description of three ‘case histories’ of complaints that I had come across during the individual interviews. These were used as a framing exercise to enable group members to see the context of my research. I had planned to get participants to comment on these case histories and use them as a launch point for the discussion. In practice people wanted to talk about their own experiences instead. The case histories were not discussed at all.

With group three I did not use the prompts at all. I began the session by introducing my research and then asking members to introduce themselves and briefly describe their caring situation. A couple of members were resistant to doing this but once one member started, the others joined in without further prompting. Since the group discussion was going well without the use of prompts, I decided not to use them. In group four, I followed the design of group three, not using prompts but allowing group members to talk about issues that concerned them. Appendix eight includes the original topic guide and the examples used for the focusing exercises.

Member participation

All focus groups consisted of members of existing groups who were familiar with meeting together and discussing services. There was a great deal of humour in the discussions, which suggested that people felt relaxed. Since the four groups were set up as support groups, there was also a supportive atmosphere, with members giving each other advice and, in one case, emotional support when a member became upset when she talked about her late husband. Most members were willing to talk, although in each group there was some domination by one or two members and some members who were quieter. Some members of the older people's groups were hard of hearing and this made it more difficult for them to participate. This difficulty has been found in previous research using focus groups of older people (eg Dewar *et al* 2001) but participation by these members was encouraged by the fact that they were used to meeting with the other group members and were helped to participate by the facilitator (see below).

Role of facilitator

The facilitator from the voluntary organisation in the older people's groups (the same person in each group) took part in the discussion in both groups. This had been agreed as part of the negotiations with the voluntary organisation. She saw her role as helping the group members to participate. At times this led her to directing the discussion and using it to meet her agenda, for example, giving information and promoting the value of the group. I was concerned that the facilitator's interventions might have skewed the way the discussion went. However she did help in enabling people to

talk and sometimes by reinterpreting my questions so that people could understand. There was no facilitator in the carers' group or the disabled people's group. This allowed me to direct the flow of the discussion more, while also allowing the group members to interact more with each other.

On reflection, the focus groups were less effective than I had hoped as a means of finding out about people's views on complaining. The tendency of the groups to be swayed by one or two vocal members was quite strong. However, there was some disagreement amongst members which suggested that there was room for different views to be expressed. The primary purpose of the groups as a means of exploring ideas rather than gathering information proved to be useful. The analysis of the focus group data takes account of the limitations of the data (Reed and Payton 1997, Webb and Kevern 2001).

Ethical issues

The research proposal was submitted to Edinburgh University, via the 'End of first year Assessment Panel', and to each of the local authorities for ethical approval. Ethical approval had also been sought from the Association of Directors of Social Work but it agreed that it would be appropriate to seek approval from individual authorities instead.

The process of negotiation with the individual authorities, including those where research was not carried out in the end, raised issues which were incorporated into the final design. The following ethical issues were

considered:⁹ confidentiality and anonymity; informed consent; feedback to interviewees; use of quotations.

Confidentiality and anonymity

Confidentiality was a key requirement in this research. The information which people provided to me was very personal and potentially problematic to their relationship with the local authority concerned. There were three types of information which required consideration: personal information, information contained in local authority records and the identity of the local authorities. The methods used to protect these types of information are described below.

Personal information

All personal details about individual service users have been treated as confidential. The local authorities have not been told which complainants were interviewed and no information on particular cases has been provided to the local authorities. The names of interviewees and focus group members are all pseudonyms. In some cases minor amendments have been made to the details of the complaint or to the relationships between people involved to ensure anonymity. Since individual complainants might be identified because of the nature of their complaint, the discussion of individual cases and the quotations from individual complainants do not identify which authority they are from. Where the identity of the authority is relevant to

⁹ Based on the University of Edinburgh School of Social and Political Studies Research Ethics guidelines, and guidelines provided by the Social Research Association (Social Research Association 2003) and the Scottish Executive (Scottish Executive 2001).

what they said (for example in discussing people's views of the role of the complaints officer in chapter four, or where complaints review committees are discussed in chapter seven) a different system of pseudonyms has been used, with complainants identified by a code number only.

In fact many people said that they didn't mind their names being used or positively wanted me to use their names in writing up the research. In these cases I told them that I would not use their names as it had been part of my research method to keep people's details anonymous.

As with the individual interviews, all the participants in the focus groups remain anonymous, as do the voluntary organisations which were involved in setting up the groups. Confidentiality is more difficult to guarantee in the context of focus groups as it is not possible to commit group members to this. The most that could be offered was that information would not be passed on by the researcher.

Information contained in local authority records

Neither of the local authorities provided access to personal data. The only local authority information to which I had access was the anonymised database provided by Duncairn and statistical information which is already in the public domain. The complaints officer in Duncairn originally offered to provide reference numbers on the database which would have allowed me to link the cases on it to the people that I interviewed. I decided not to use this identifier coding because I wanted to preserve the confidentiality which I had promised interviewees. I also felt it would enable people to be more

open with me if I could honestly say that the local authority had not told me anything about their case in advance. The disadvantage of this was that I was not then able to make a direct link between their version of their story and the local authority's, although sometimes it was clear from the database which were the cases of people that I had interviewed.

Anonymity of local authorities

The two local authorities remain anonymous and the pseudonyms, Kinraddie and Duncairn, have been used throughout. This is partly intended to protect the anonymity of individual service users. I have made every effort to maintain this anonymity, for example by describing the staff responsible for dealing with complaints as 'complaints officers' and departments as 'social work departments' although these job titles and departmental names vary between authorities. The genders of the complaints officers have been randomly assigned (Duncairn, female; Kinraddie, male).

Informed consent

All participants were provided with information about the research and its aims and methods and individual interviewees were asked to provide initial consent to participate (see appendix three). A further consent form was provided at the interview and the issues on it were discussed with all interviewees before proceeding (see appendix six). I was concerned not to mislead people into thinking that my research was likely to change anything to do with the particular problems that they had experienced, rather than the complaints procedure itself. I explained to people that my focus was on the

complaints procedure. The feedback provided at the end of the research also emphasised this (described below).

Informed consent was more difficult to obtain with the focus groups as I did not recruit the members directly and 'gate keepers' cannot always be relied upon to ensure informed consent in advance. In addition it can be difficult for group members to leave the meeting if they do not give consent (Farquhar and Das 1999, p53). Information was provided to the voluntary organisations to pass on to group members and was discussed again at the beginning of each meeting (see appendix nine). Group members were given the opportunity to ask for particular information to be excluded from the research if they had inadvertently disclosed something that they did not wish to have included. No one made use of this option.

All participants were informed that they had the right to withdraw from the research at any time. Nobody requested to do this. All information provided to interviewees and focus group members was provided in large print or, in the case of one visually impaired focus group member, on tape.

Feedback

In my research proposal and in formal applications for access to local authorities I said that 'Feedback on the research will be offered to all participants, in the form of summarised findings.' This proved to be more difficult to achieve than I had anticipated. Two particular issues arose: the timing and the content of the feedback.

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The individual interviews in the two local authorities took place between January and March and May and June 2005. The first three focus groups were conducted between January and March 2006 and the fourth in October 2006. It seemed unreasonable to expect people to wait until the research was finished before providing feedback. The simple answer seemed to be to give immediate feedback to interviewees at the end of each fieldwork block but this then raised questions as to what could be included.

I decided that on balance the best approach was to give individual interviewees feedback about the individual interviews in their authority only and to give the focus groups feedback on all the focus groups, on the grounds that this would give them some information about my overall findings in a fairly short timescale. I had some concerns about this approach because it did not allow participants to see their 'own story' since this would be hidden amongst the findings for their authority nor did it give them any overall conclusions to the research. I was also concerned that the anonymity of the local authorities would be compromised (individual interviewees knew where they lived). It had been important to my research from the outset that I was not conducting an 'evaluation' of the individual local authorities, partly because that was not one of my research aims and partly because this was the basis on which I had negotiated access in the first place. It would have been a breach of my agreement with the local authorities if I had given information to individuals which would have allowed them, for example, to go to the local paper saying 'x authority has a poor complaints procedure/treats its social work clients badly etc'.

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The final reports that I produced were in the form of short newsletters which gave some very basic demographic information about the people I had spoken to, what they had told me about their complaints and what they thought needed to be changed. I could not do much about the problem of local authority anonymity. I did not include the name of the local authority in the report and asked people, in the report itself and in my covering letter, not to pass on the information without asking me first. I sent these to all the individual interviewees and the complaints officers in the two authorities and to the voluntary organisations responsible for organising the focus groups. My covering letter asked them to let me have any comments. I have not received any. An example of the report sent to complainant interviewees in one local authority is included in appendix ten and a copy of the report sent to the voluntary organisations that organised the focus groups is included in appendix eleven. These were based on a preliminary analysis of the data and my views on some findings have changed since these were written.

Extracts from draft chapters were sent to the two local authority complaints officers, asking them to provide any comments. Neither complaints officer provided any comments on the draft chapters. Final reports will be provided for the two local authorities once the research is completed.

Data analysis

Data analysis was based on identifying themes from the interview and focus group data. Some themes were identified from the literature and the exploratory stage of the research in advance of the interviews and were

incorporated into the interview schedules (Yin 2003, p112). Others emerged in the course of the data collection, see below. The computer package, NVivo, was used to assist analysis. As is often the case with qualitative research, the analysis stage of the research could not be clearly separated from the data collection (Ezzy 2002, p60, Gibbs 2002, p2). I kept research notes throughout the process which allowed me to reflect on ideas as they emerged from the literature, from interviews, from discussions with supervisors and colleagues and from attending conferences. These notes were not entered into the NVivo database but were used to refer to during analysis. Interview schedules were designed so that questions could build on themes emerging from previous interviews (Rubin and Rubin 1995). This was particularly the case with the interviews with social work staff and with the focus groups. As described above, these interviews and the focus groups were carried out after the individual complainant interviews and so they were informed by the preliminary analysis of complainant data. I transcribed all the interviews myself, as soon as possible after conducting the interviews so that I could use this process to reflect on how well the interviews had gone and on the issues emerging from them (Ezzy 2002, p70).

All interviews and focus group sessions were transcribed in full and entered into the NVivo database. All transcripts were assigned 'attributes' to assist with the analysis. Attributes in NVivo allow transcripts to be coded according to fixed 'variables' that may be useful for the analysis (Gibbs, 2002, p95). Attributes included the variables described in chapter four, eg:

- Type of interviewee (service user, relative etc)
- Interviewee's age
- Age of service user

- Gender
- Length of interview
- Multiple deprivation indicator

Attributes were also used to label transcripts according to local authority, the type of interview or focus group and the type of interviewee (complainant, staff, advocate). This allowed analysis to be done by looking at different categories, for example, all interviews from Duncairn, all staff, all relatives, or all focus groups.

Identification of themes

Complainant Interviews

After each interview I made notes on my initial reaction to the themes that had been covered. I used these notes to create a list of emerging themes (Ritchie *et al* 2003). Seale makes a distinction between ‘indexing’ and ‘coding’, arguing that indexing is a first level procedure ‘acting as signposts to interesting bits of data rather than representing some final argument about meaning’ (Seale 1999, p154). This initial list was used as the basis for the coding structure in NVivo. NVivo allows extracts from interviews to be coded and then retrieved as required. The coding facility allows a single word, a sentence or extract to be retrieved while maintaining a link to the entire transcript so that the extract can be studied in its context (Gibbs 2002). Some of the codes were based on questions that had been in the interview schedule. Examples of codes that were created at this stage included:

- Expectations of complaints procedure
- What caused people to ‘drop out’
- Alternatives to using the complaints procedure
- Barriers to using the procedure

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- How the procedure could be improved

Other themes emerged from the interviews which had not been specifically included in the interview schedule. For example:

- Attitudes to social work
- Threatening the local authority with going to the press

Once all the interviews were completed I read through all the transcripts and coded extracts according to the initial coding structure. At this stage I also created new codes where new themes appeared to be emerging. Examples of these included:

- Role of apologies
- Being a ‘fighter’
- Not wanting to be seen as ‘complaining’

A third type of coding was created when themes occurred to me at a later stage in analysing the data, for example

- Meaning of complaining
- Anger
- Legalistic language
- Models of justice

These codes in NVivo were used as the basis of the analysis. For example when writing about barriers to using the complaints procedure, I was able to search the database on ‘barriers’ but also on ‘why other people don’t complain’ and ‘what causes people to drop out’ and ‘alternatives to using the complaints procedure’. Codes can be arranged in ‘hierarchies’ so that, for example, the theme ‘information’ was subdivided into the main sources of information that people had used to access the procedure, eg ‘leaflet’, ‘advised by local office’, ‘local councillor’, ‘voluntary organisation’ or, as proved to be very common, ‘just knowing what to do’.

Revising codes

Coding in qualitative analysis is an 'analytic process' (Gibbs 2002, p59) and is intended to be flexible and to change as the analysis develops. This meant that some of the initial codes were adapted or refined to take account of later analysis. An illustration of this is the example of 'what happened' to people's complaints. I had initially thought that I could create a simple set of variables that could be entered into the attributes field, along the lines of 'complaint upheld', 'complaint not upheld', etc. However, when I tried to do this I realised that 'what happened' was much more complex than this and codes were needed for 'don't know' and 'problem resolved anyway'. I started with an 'ideal' model of what should happen when a formal complaint is received by the local authority (figure 6a, chapter six). I then tried to see whether I could follow people's stories through the flow chart. It soon became apparent that I could not. So I started moving backwards and forwards between the flow chart and the individual interviews, adding new options for what had happened and recoding the data accordingly. This was useful because it allowed me to look much more closely at what people had actually said. So that complaints that I had originally noted as 'upheld' proved to be more complex – for example, they were partially upheld, or a re-assessment had been offered which had not necessarily led to a change in the services provided. Initially I had a category called 'nothing effective happened'. This procedure forced me to look at what had happened and why the person was saying that nothing effective had happened, for example, they only got an apology but didn't get the services they were looking for, or they had been promised a service but it still had not materialised or they weren't really very

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sure what had happened. I also found new categories such as ‘local authority does not accept responsibility’ and ‘local authority acknowledges that there is a problem but says that they can’t do anything about it’. This eventually led to a revised model of what happens to complaints (figure 6b, chapter six). This model was created in NVivo using the codes derived from the interviews. Every time I put a new outcome category on the chart I had to think about whether to create a code to represent it. I then looked again at what was actually coded with that category to see if it reflected what I thought it was about. I also found that there were some categories that had no interviews attached to them. In other words, this was a possible outcome but hadn’t happened to anyone I spoke to. A more detailed discussion of what happens to complaints is in chapter six.

The analysis of classification of complaints (chapter five) started with an initial classification of ‘what the complaint was about’, based on a summary of the complainant’s account, made immediately after the interview. I revised the coding on this after looking at the transcript to see what complainants had actually said about their complaint. This showed much more complexity. Some people had changed their minds about what they wanted over the course of the complaint while others showed that there was often more to it than just getting their own problem resolved (see chapter five for a full discussion of this). The flexibility of the coding scheme allowed these subtleties to inform the analysis.

Another stage in the assignment of codes involved looking for ‘negative’ examples. This is one way of checking the validity of research findings (Dey

1993, Gibbs 2002). An example of this can be seen where I was investigating the idea of what it means to make a complaint. A theme that had emerged from some interviews was that people did not like 'complaining'. While looking for examples of this, I also looked for people who had 'wanted to complain'. This search showed that people also talk about complaining in terms of righteous anger or in terms of legal rights. (For further discussion of this, see chapter nine). 'Anger' was not a theme that had occurred to me until I looked for these 'negative examples'.

Staff interviews

Interviews with staff members (complaints officers, social work managers, advocates) were analysed in a similar way but the coding in these cases focused on the effectiveness of the complaints procedure and understanding of how it ought to work, rather on individual experiences of complaining.

Focus groups

A similar process was used for the focus groups. I made notes immediately after each focus group meeting on the themes that seemed important. All tapes were then transcribed and added to the NVivo database. The coding used for the focus groups was less detailed than that for the individual interviews. I did not concentrate on coding for individual experiences of members of the focus groups as this is not the purpose of collecting focus group data (Reed and Payton 1997). The main analysis of the focus group data followed that suggested by Webb and Kevern (2001) and looked at how the interactions between focus group members showed agreement or disagreement. In each of the four focus groups there was a great deal of

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consensus on the issues discussed, although there were differences between the groups. This level of consensus may have been created by the fact that the members of the groups knew each other and often referred to experiences that they had discussed before. There was also an element of dominance by particular members of the groups which could have led the group discussions in one direction rather than another. The analysis therefore concentrated on how the consensus appeared to develop and where there were disagreements. However, the individual experiences of some group members also proved useful in providing examples of issues raised in the groups. Where this was the case, they were coded and used to illustrate the discussion in the thesis.

Editing of quotations in the text

There is a debate in social research as to how far verbatim quotes should be edited (Corden and Sainsbury 2006). Spoken language is inherently different from written language in that it has different grammatical conventions and depends a great deal on inflection and visual cues. For this reason it is impossible to write down spoken language 'exactly as it was said'. It has also been argued that attempting to do this is patronising to the speakers, who would be embarrassed to see their 'ums and ahs', grammatical errors and changes of grammatical form half way through the sentence reproduced in writing (Corden and Sainsbury 2005). In this research some interviewees had speech impairments and it seemed particularly inappropriate to attempt to describe their speech exactly as it was said. It is rare that this would make a significant difference to the speaker's meaning. Therefore quotes have been edited to make them understandable. Grammatical inaccuracies, 'ums and

ahs’ and malapropisms have been tidied up out of respect to the speakers. Text that has been deleted is represented with [...]. Names of people, places and institutions which would reveal the location or identity of the speaker have been replaced with square brackets, eg [name], [place].

Analysis of complaints database

The database of complaints from Duncairn was analysed in a different way. As described in chapter five, it was used primarily to develop a classification scheme for complaints. Analysis of the database consisted of looking at each entry and attempting to work out ‘what the complaint was about’. Notes were made on each entry so that each could be coded according to the description of the complaint and the action taken by the authority in response to it. This analysis was clearly limited by the data available. The only information available was the actual entry in the database, which was sometimes not at all clear. The database entries included the following:

- ‘outline of complaint’ – a brief description of the complaint
- ‘complaints section notes’ – a brief explanation of what the complaints section thinks the complaint is about and a description of any action taken

Examples of these can be seen in table 3e which shows examples of the original entries in the database in columns one and two and researcher notes in column three. The researcher notes were used to create a classification scheme.

Table 3e Database analysis examples

Outline of complaint*	Complaints section notes *	Researcher notes
Length of time client has waited to have a stair lift installed in home.	A client complained of a delay of over one year to have a stair lift installed in her house. The response from the [manager] states that the client is a high priority and agrees that they have waited too long. An apology is offered and an explanation that this is caused by excessive demand coupled with staff shortages. An undertaking is given to allocate the case to a worker within the month.	Local authority investigation shows that client has been 'correctly' assessed and is on a waiting list. This is a case of a 'delay' complaint also being about a failure to provide a service. It could also be about policy since it is about the way that waiting lists operate.
Reduction in home support from 9 hours to 4	Client complained about reduction in home help service from 9 to 4 hours per week. Letter confirms that service has now been adjusted through restructuring of shopping vs other tasks and package increased by 1/2 hour. Letter notes that client has discussed this with home care manager and agreed package.	Effect of complaint was for client's position to be reassessed and home support increased through a redefinition of her/his needs. Does this make it a policy problem? Or is it about a wrong or unreasonable decision?

*These entries are copied verbatim from the database, with minor amendments to maintain local authority anonymity

This analysis of the database was also informed by the interview data. For example, the category 'delay' was refined when it became clear that people do not seem to complain about a delay as such but about the fact that the delay has led to a non-provision of services. Chapter five describes the

different typologies that were tested and the way in which these changed as the analysis progressed.

These methods of analysis enabled me to consider what the interview and focus group data could tell me about making complaints about community care services. The interpretation is necessarily influenced by the concerns which interested me at the outset. However, by allowing new themes to emerge from the data I hope that I have been open to other possible perspectives. Another researcher, looking at the same data with different research questions in mind, might well find issues which did not occur to me. However, the method of assigning initial codes and then repeatedly returning to them to reconsider their usefulness, while also looking for 'negative examples', should help to ensure their validity (Lewis and Ritchie 2003, p273).

Chapter four

The case studies and the complainants

This chapter provides an overview of the two case study local authorities and describes the characteristics of the individual complainants.

The case study authorities

Chapter three discusses how the case study approach was used in this research and how the two authorities were selected. Although the possible contrast between local authorities was initially a focus of this research, it became clear as the study progressed that the differences between the two authorities were less important than the similarities and that many of the apparent differences arose because of differences in the operation of community care policies rather than differences in the complaints procedure.

However, the complaints procedures in the two authorities are structured in different ways and the complaints officers see their roles quite differently. This had some effect on the way that complainants perceived their experience of using the procedure, although, as chapter six shows, many complainants were not particularly aware of being part of a formal procedure and few knew what to expect from the procedure at the point that they made the complaint. Other chapters discuss general themes arising from complainants' experiences. This chapter focuses on the differences between the authorities and the effects that these had on complainants. For each authority it describes the complaints procedure, the role of the complaints

officer and the views of complainants on the operation of the procedure. It then goes on to compare the two authorities.

Duncairn

In Duncairn the social work complaints procedure is co-ordinated by the complaints officer but the day-to-day administration of it is carried out by area based social work managers.

Procedure

The local authority's guidance to staff on the complaints procedure does not distinguish between 'informal' and 'formal' complaints but between informal and formal *responses*. It maintains that all complaints should be dealt with in the same way but that some will require only an informal response. The choice as to whether a complaint is dealt with formally or informally should lie with the *complainant*, who should make an informed choice about how the issue should be dealt with. Complainants should be informed of their right to make a formal complaint if they are unhappy with the informal response. All complaints which receive a formal response must be recorded but those which receive an informal response need not be recorded, although individual area managers may choose to do so. The Duncairn procedure also includes an 'internal review' stage where complaints can be reviewed by a more senior official, before going to a complaints review committee. The procedure for the complaints review committee is discussed in chapter seven.

Role of the complaints officer

The role of the complaints officer in Duncairn is to oversee the complaints procedure and ensure that it is operating properly. The complaints officer also collects statistical information on complaints. The complaints officer oversees all formal responses to complaints, which should be copied to her. Her role at this stage is to ensure that the procedure has been followed correctly.

The complaints officer does not normally deal with complaints directly. If a complaint is made directly to the complaints office it will normally be forwarded to the appropriate area manager. However, in some cases she will talk to the complainant on the phone first, for example if the complainant phones the complaints office directly or if a written complaint is not clear, in which case the complaints officer may phone the complainant for clarification. This means that, in practice, the complaints officer does in fact 'deal with' some complaints, for example, if it becomes clear during this phone call that it could be resolved easily. It would then be considered to be an 'informal complaint'.

The other time that the complaints officer might deal with a complaint directly is if the complaint is considered to be 'vexatious or persistent'. For example if the complainant has been abusive to staff, the complaints officer will take over correspondence with the complainant, in order that the complaint can be 'managed' more easily, while still ensuring that the complainant's rights are upheld.

The complaints officer does not follow up complaints or ensure that promises are kept. Her role is to ensure that the complaint has been dealt with according to the procedure:

I'm not there to agree or disagree with the findings of the investigation, nor am I there to ensure that it's followed up. I'm there to ensure that the response to the complaint addresses all the points and these are clear and it offers suitable redress and apology, if upheld and advice about how to take matters further. And if it does all those things then that's a closed book as far as I'm concerned unless the client comes back and wants to appeal it.
(Complaints officer, Duncairn)

Complainants' views

Few of the interviewees in Duncairn remembered speaking directly to the complaints officer, as many were not sure who they had spoken to at different stages. Some of those who remembered having direct contact with the complaints department appreciated the manner in which they were treated.

In fact yes, she phoned me and said 'I see you've been having problems' and she was the first person who had the right manner, the first person who admitted I'd been messed about and she had read the previous letters to the other managers and she apologised.
(Complainant 5 Duncairn¹⁰)

So I went straight on to the headquarters and could not have been treated any better. The girl there that answered the phone was really fine. I wasn't very well [...] at the time and she was very concerned about me and she said she would get [the complaints officer] to speak to me. And she came on the line and naturally she could only take my word for what had happened so she said she'd attend to it and so they did.
(Complainant 13, Duncairn)

The [complaints officer] that I spoke to was very helpful at the time and she said that she would deal with it. I thought she wasn't going to let it go. She was genuinely listening to what I said. Normally in situations like this they

¹⁰ In this chapter code numbers are used to identify complainants, rather than pseudonyms.

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need to use a bit of diplomacy and they won't side with you until they know the outcome. She obviously listened to what I had to say and she genuinely said to me 'leave it with me [...] I said to her 'that is all I was wanting when I went in, a bit of courtesy. If they had spoken to me in the manner that you're speaking to me I would have been quite contented. It's this negative attitude that is so unhelpful'.

(Complainant 7, Duncairn)

The experience of these interviewees suggests that being treated with respect by the complaints officer is an important part of the complaints procedure. Those who appeared not to have had any involvement with the complaints office but had dealt only with the local office did not seem to have the same sense that 'someone was listening'.

Kinraddie

In Kinraddie the complaints officer operates a more hands-on approach. All complaints, in theory, go to the complaints office, although in practice complainants can choose to take an issue up directly with the local service provider. The complaints officer also acknowledged that complaints sometimes bypassed his office if the complainant sent the complaint direct to a more senior member of staff or to a local councillor. The recipient would not always deal with this through the complaints procedure but would instead attempt to resolve it themselves. This was a frustration to the complaints officer:

I've tried to say that it would be better if all these things did go into the complaints procedure, I'd be perfectly happy to ensure that feedback went to the senior manager or the councillor who originated the complaint. But it doesn't work like that because they [the managers and councillors] want to be seen to be taking action.

(Complaints officer, Kinraddie)

So, although the procedure in Kinraddie is more centralised than Duncairn, complaints do sometimes bypass the complaints officer.

Procedure

The Kinraddie complaints procedure is described as having three stages: ‘an informal stage’, ‘a formal stage’ and the complaints review committee.¹¹ If a complaint is made at the informal stage, either to a local staff member or to the complaints officer, it may be resolved by discussion, explanation or mediation. If the complainant is unhappy with the result of this informal stage he/she can then take it to the formal stage. Formal complaints must be in writing and the complaints officer will assist people with this if they want. Once the formal complaint is received it is passed to the relevant area manager to respond to. A copy of the response to the complaint is sent to the complaints officer and he will continue to advise the complainant about further options if the complainant is dissatisfied with the response.

Role of the complaints officer

As well as overseeing the complaints procedure, the complaints officer in Kinraddie plays an active role in advising complainants about their rights. This can include talking to them on the phone, visiting them to discuss their complaint or assisting them with formulating the complaint in writing. The complaints officer said that, because most complaints come in initially over the phone, he is involved from the start. He did not see his role as being to investigate the complaint but to help the complainant find a resolution to the problem:

¹¹ Kinraddie – guidance to staff on the operation of the complaints procedure

I see it in terms of someone's come to me with a problem that requires a solution and we'll look for a solution and the solution may be for me to negotiate with someone on their behalf, or discuss something or find out some information for them or a hundred and one things for them
(Complaints officer, Kinraddie)

Complainants' views

Interviews with complainants suggested that the complaints officer in Kinraddie had often played an active role in advising the complainant about their problem and what rights they might have to resolve their problem and not just about the complaints procedure itself. Complainant 8 described the complaints officer as 'almost like having an advocate'. Other complainants described the complaints officer as a 'mediator' or a 'trouble shooter'. This did not necessarily mean that they understood where the complaints officer fitted within the social work department. This was explained by complainant 12, who was pleased that the complaints officer had been so helpful but said:

.. whether he was just there to take complaints or whether he had anything to do with social work I don't know.
(Complainant 12, Kinraddie)

She did not particularly connect her engagement with the complaints officer with getting her problem resolved. I discussed this role with the complaints officer, explaining that some people had told me that he had appeared to take an active role in dealing with their complaints. The complaints officer's response was that he agreed:

Very much so. [...] So I try to listen but it's active listening. You need to feed something back to people. There's no point in just sitting there while they just talk and talk. They've got to feel that you're giving something back, that you've heard them.
(Complaints officer, Kinraddie)

This role as someone who can stand back somewhat from the social work department, although being part of it, was recognised as important by some complainants in Kinraddie:

They need to employ people with more integrity ... more people like [complaints officer] because otherwise there's no integrity.
(Complainant 1, Kinraddie)

Complainant 4 was particularly grateful for this aspect of the complaints officer's role. She had been very worried about the problem that she was experiencing and it was having an effect on her mental health. Although her complaint was not resolved, the sympathetic nature of the complaints officer had made it easier for her to deal with:

It was helpful him coming out to see me because I felt a hundred times better after speaking to him. I did feel a lot better.
(Complainant 4, Kinraddie)

Although several complainants talked in positive terms about the complaints officer in Kinraddie, not all interviewees had this impression of his role:

Oh I wrote to [complaints officer] but he just passes it on to the people you're complaining about. He doesn't do any investigating or anything. He's just a manipulator [...] passing on letters.
(Complainant 8, Kinraddie)

Not all complainants had a clear memory of who they had spoken to and when, or at what stage, their problem had been resolved (or not). However, those who had had contact with the complaints office appeared to appreciate his role.

Comparison between Duncairn and Kinraddie

The complaints procedures in the two local authorities are structured differently. In both authorities complaints can be made to anyone in the social work department: in Duncairn they are generally dealt with first by a senior area manager, although at times the complaints officer may talk to the complainant about how best to pursue the issue. In Kinraddie however all complaints are filtered through the complaints officer first and he takes an active role in advising the complainant how best to pursue the complaint. In both authorities the formal investigation and response to the complaint are usually carried out by a senior manager at local level. The complaints officers in both authorities oversee the complaints procedure and attempt to ensure that complaints have been dealt with within the statutory timescales and that complainants have been advised of their rights to pursue the problem further. Neither complaints officer deals directly with complaints review committees (see chapter seven).

Figures 4a and 4b, below, summarise the structures of the two complaints procedures. Note, however, that these are ideals. In practice not all complaints follow the procedure shown. Chapter six discusses this and the reasons for it in further detail.

Figure 4a Initial stages of complaints procedure – Duncairn

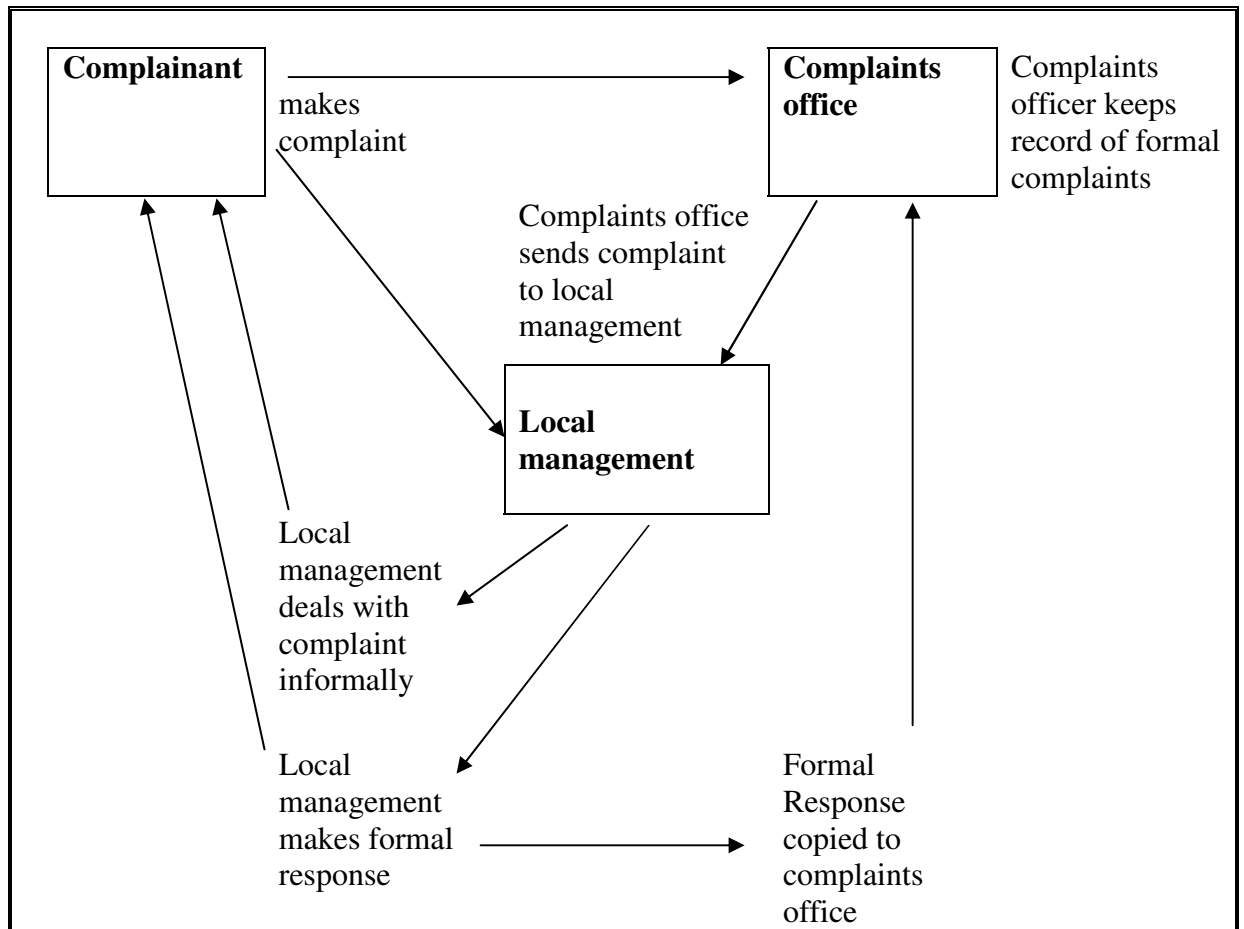
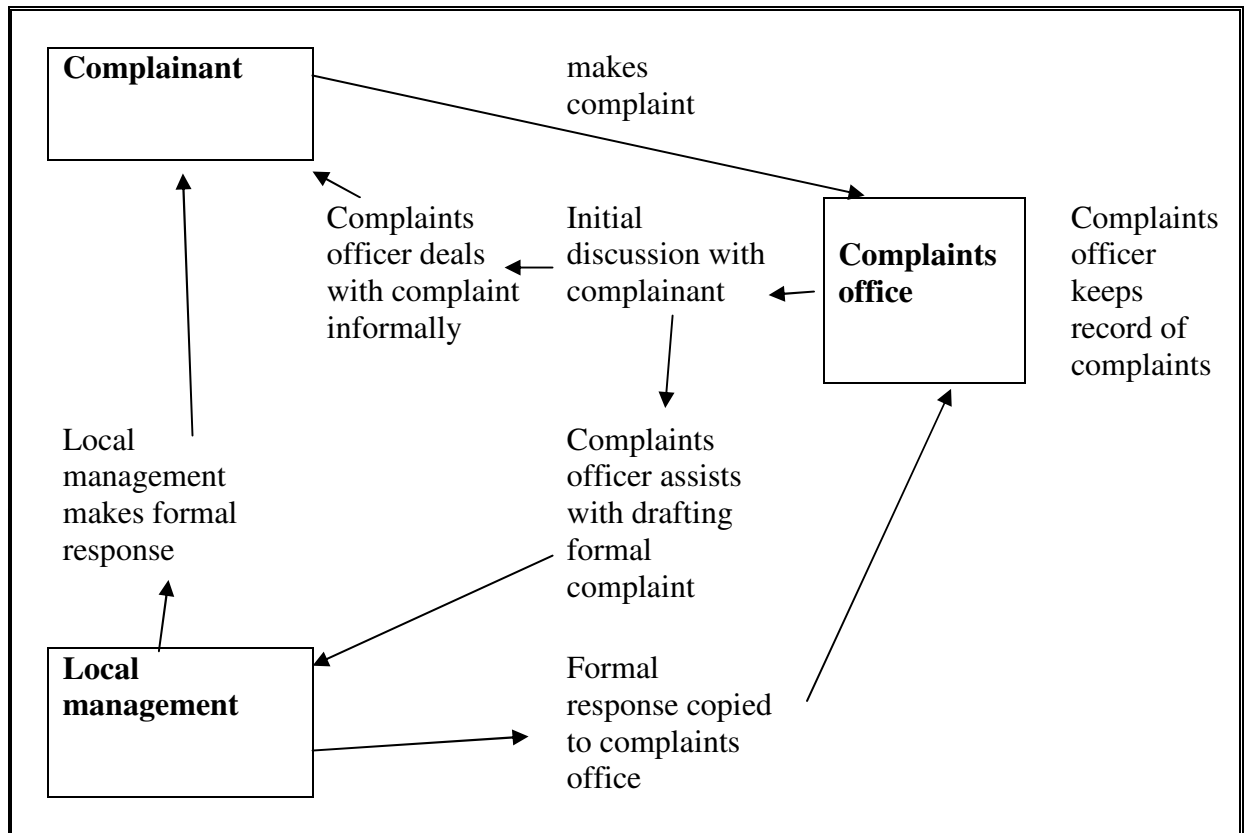


Figure 4b Initial stages of complaints procedure - Kinraddie



The difference in approach taken by the two complaints officers does seem to be reflected in the perceptions of some of the people who made complaints. Those in Kinraddie were more likely to have had contact with the complaints officer and some certainly appreciated the way in which the complaints officer appeared to ‘take their side’ and offer advice on the best way forward, sometimes providing them with important information about their complaint which reassured them. However, this did not necessarily mean that they were more satisfied with the procedure as a whole. Ultimately what mattered to them was getting their problem resolved and some reassurance that the problem would not arise again. In neither authority is this part of the

complaints officer's role. It is also important to note that not all complainants had direct contact with the complaints officer, even in Kinraddie.

The personality of the complaints officer may be as important as the formal differences in the way the complaints procedure operates. Xanthos, in her research on complaints managers in the NHS, argues that there is an inherent contradiction in the role of complaints managers and that different individual staff respond to this contradiction in different ways (Xanthos 2004). Mulcahy also notes that the attitudes of complaints handlers affect the way in which procedures operate (Mulcahy 2003, p123)

Types of complaints and their outcomes in the two authorities

One of the questions at the start of this research was whether there were different patterns of types of complaints in different local authorities and whether there was any difference in the way they were resolved. Chapter five discusses some of the issues involved in classifying complaints and shows a breakdown of the differences in complaint type between Duncairn and Kinraddie. This chapter concludes that, although there are some differences in patterns of complaints, the numbers are too small to make generalisations about the authorities. The small differences in types of complaint are more clearly explained by different patterns of problems in the respective authorities than by differences in the complaints procedure.

Chapter six discusses what happened to people's complaints: whether they were upheld or not and how satisfied complainants were with the outcome. Chapter six shows that establishing the 'outcome' of a complaint is not as

clear as might be expected and that many people were unsure exactly what had happened to their complaint. Despite the differences between the complaints procedures in the two authorities, there did not appear to be striking differences in whether or not the complaint was upheld or in the information received by the complainant about the status of their complaint. Chapter six also looks at the point that complainants left the procedure (whether satisfied or not). Again there did not seem to be significant differences between the two authorities, except when it came to the complaints review committee. No interviewees had taken their case to the complaints review committee in Duncairn, while three had in Kinraddie. Similarly, there appeared to be no cases on the Duncairn database that had reached the complaints review committee, while Kinraddie had held six hearings related to community care cases over a similar period. These differences and the possible reasons for them are discussed further in chapter seven.

Characteristics of individual complainants

It is conventional in social research to identify the gender, age, social class, ethnicity and, in the case of disability related research, the type of impairment, of interviewees. While I set out to collect this information, it became clear to me that it would not be straightforward, or necessarily relevant to my research. Because of the ways in which they had been selected, it was not possible to choose complainants with particular characteristics (eg in relation to gender, age etc). The sample was self-selecting and the numbers were too small to make broad generalisations

about people with particular characteristics. In the tables below, I describe the characteristics of the individual complainants. The tables illustrate the range of people who were interviewed and the range of people on behalf of whom the complaints were made, in each authority. Since it is difficult to assess the extent to which the interviewees were 'representative' of some wider population, the main purpose of providing this information is to show the diversity of those I spoke to. Some examples of particular individuals illustrate this diversity and the complexity of the relationships involved:

Ms X was a woman in her early thirties. She had a physical impairment which she had had since birth. She lived alone in socially rented accommodation in a relatively deprived area and had never worked. Her schooling had been interrupted because of her disability. She complained on her own behalf.

Mr Y was a man in his eighties. He lived in a privately owned, former council house, with his son who was in his 50s and who had physical and learning disabilities. Mr Y had taken over primary caring responsibilities for his son since the recent death of his wife. Because his wife had always been the primary carer, he did not have much direct experience of dealing with social work.

Ms A was a woman in her eighties who lived on her own in a relatively prosperous area. She had worked all her life in a professional occupation and had recently become severely disabled as result of age-related health problems. Until recently she had had no dealings with social work services.

Mrs B was a woman in her fifties who lived in a relatively prosperous area in private housing. Her complaint related to her father-in-law who had dementia and lived in residential care. She had not had any dealings with the social work department before.

Ms C was a woman in her fifties who lived in socially rented housing in a relatively deprived area with her son who was in his 30s. She had physical disabilities and he had mental health problems. Ms C provided support to her son in relation to his mental health problems, while he provided physical

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support to her. Their need for social work services related to both of these issues.

These examples illustrate some of the complexity of relationships between age, gender, social class, impairment and past experience of using social work.

It is very difficult to assess how far those interviewed were representative, in demographic terms, of the population from which they were drawn. Very little information is collected or recorded by local authorities on the characteristics of complainants. In my earlier study of Scottish local authority annual reports I found that only one authority provided information on the ethnicity of complainants and that none provided any information on gender, age or impairment. Six local authorities recorded the proportion of complaints made by service users, relatives or advocates (Gulland 2003, p45). In the research carried out by Simons in 1995, only 13 out of 86 local authority reports included any information about who had made the complaint (Simons 1995, p19). It was possible to work out from the Duncairn database whether complaints were made by users or relatives and, in some cases, the gender of the complainant. Where this information was available the figures are shown in the tables below.

Service users and relatives

Many complaints are made by people on their own behalf but many others are made by relatives. I use the term 'service user' to describe the person who was using or attempting to use social work services. Beresford argues that

this is a problematic term as it includes people who may be unwilling users of services and implies that this is their main identity (Beresford 2005). However, I use it here as it best describes the relationship between the ‘user’ and the local authority. I use the term ‘relative’ to describe people who made a complaint on behalf of someone else. The term ‘carer’ could be used as a shorthand term for relatives who make complaints on behalf of ‘service users’. This term is problematic (Fine and Glendinning 2005, Morris 1993, Parker and Clarke 2002, Watson *et al* 2004) and it was particularly clear in my research that it was not an appropriate term. While some of the ‘relatives’ who made complaints would undoubtedly describe themselves as ‘carers’, others would not, as they included people who did not provide any direct care for the person concerned. They also included people who had disabilities themselves and whose relationship was much more complex than that suggested by one person ‘caring’ for another, and people whose main relationship was a financial one, in that they had responsibility for the service user’s finances. It is not always clear whose needs are really being addressed by a complaint. Sometimes the ‘carer’ was looking for support services for themselves. In these cases the carer becomes the ‘service user’. Despite these sometimes complex relationships most people were clearly identifiable as ‘service users’ or ‘relatives’. Four complaints were made by advocates. See Table 4a below.

Table 4a Type of complainant

	Duncairn	Kinraddie	Total	% of Interviewees (n=36)	% of Duncairn database (n =91**)
Service user*	9	7	16	44	49
Relative	7	9	16	44	40
Advocate	4	0	4	11	5
other	0	0	0	0	4

*Includes complaints made by people who were both service users and relatives of other service users

** Includes only cases where the status of the complainant was clear from the database entry.

The comparison with the Duncairn database suggests that the pattern of ‘users’ and ‘relatives’ in my research is similar to the pattern of complainants in Duncairn as a whole, although there is a higher proportion of users’ complaints, in both the database and in my interviews, than has been found in previous research on social work complaints or on health complaints (see chapter 2).

Gender

Gender is often considered to be an important variable in social research and particularly in relation to research about disability and ‘caring’. Table 4b shows the gender of the complainants.¹²

¹² In most of the tables in this chapter, advocates are not included, and the number of complainants is 32.

Table 4b Gender of person making the complaint

	Duncairn	Kinraddie	Total	% of Interviewees (n=32)	% of Duncairn database (n=60*)
Male	3	7	10	31	33
Female	13	9	22	69	67

* Includes cases only where the gender was clear in the database entry.

There was a majority of women in the sample and this reflects the gender breakdown in the Duncairn database. This is not surprising given that both community care service users and carers are more likely to be women. Around two thirds of informal carers are women, although the gender breakdown of carers is different in different age groups (Fine and Glendinning 2005). Although I have not used the term ‘carer’ in describing the people who made complaints on behalf of others, table 4c shows the gender breakdown of service users and those who made a complaint on behalf of a relative.

Table 4c Service users and relatives – gender breakdown

	Female	Male	Total (n=32)
Service user	10	3	13
Relative	10	6	16
User and relative	2	1	3

Table 4c shows that the breakdown between service user and relative is fairly similar for both men and women. Previous research on health complaints has found that a higher proportion of complaints are made by women than by men, possibly reflecting women’s ‘caring’ role (Coyle 1999a). Leabette and

Mulcahy suggest that there may be a gender difference in what people complain about (1996, p17). It is not possible to make any comment on this from the current research because of the very small numbers.

Age

Age is a variable that is emphasised in research on disability and caring and on redress mechanisms. Table 4d shows the age of the person making the complaint, while table 4e shows the age of the person on behalf of whom the complaint was made.

Table 4d Age of person making the complaint

	Duncairn	Kinraddie	Total (n=32)	% of total
Under 30	0	1	1	3
30-39	2	0	2	6
40-49	3	1	4	12
50-59	3	6	9	28
60-69	2	3	5	16
70 and above	6	5	11	34

Table 4e Age of 'service user'

	Duncairn	Kinraddie	Total (n=32)	% of total
Under 30	2	3	5	16
30-39	2	0	2	6
40-49	2	0	2	6
50-59	2	5	7	22
60-69	2	0	2	6
70 and above	6	8	14	44

Tables 4d and 4e show us two things: that half of the people who made the complaint were over sixty and half of the service users were also over sixty. These tables conceal the complexity of relationships amongst the complainants. People who made complaints on behalf of others (see also discussion above) included parents, children, grandparents, grandchildren, husbands, wives, brothers, sisters, aunts, nieces and friends. Some people also complained on their own behalf. The age range of both partners in the relationship was wide. Generalisations about age are therefore very difficult to make. On the other hand, it is worth noting that most users of community care services are over sixty (Scottish Executive 2005, Twigg 2000) and between a third and a half of those who provide care for other disabled people are also over sixty (Harding 2005). When looked at from this perspective, it might be expected that a higher proportion of complainants would be made by people over sixty, than that found in this study.

Social class

Social class is often considered to be an important factor in the likelihood that people will need community care services and in their ability or willingness to argue with state providers (Arber and Ginn 1993). In the present study it proved impossible to use conventional measures of social class, based on work or educational background. The work and/or educational histories of many of the interviewees had been disrupted because of their disabilities or caring commitments. With people over working age it is conventional to ask about past work history, or in the case of women, their husbands' past work history, although it has been acknowledged that this can be problematic (Crompton 1998, p56). For many of my interviewees this seemed irrelevant,

particularly in the case of older women who might never have worked and for whom questions about the employment status of their husbands (including late or ex-husbands) would have been particularly intrusive and inappropriate. Instead an indication of social class was derived from the multiple deprivation indicators used by the Scottish Neighbourhood Statistics, according to the post-code of the home address of the complainant (Scottish Executive 2005b).

Table 4f Location of interviewees according to multiple deprivation indicators*

Decile	Number of complainants Duncairn	Number of complainants Kinraddie	Total	% of total (n=32)
1	4	0	4	13
2	5	1	6	19
3	3	0	3	9
4	1	3	4	13
5	1	2	3	9
6	0	1	1	3
7	0	2	2	6
8	2	1	3	9
9	0	4	4	13
10	0	2	2	6

*Based on the Scottish Neighbourhood Statistics, by postcode of the complainant's home. Decile 1 is the most deprived 10% of Data Zones in Scotland and decile 10 is the least deprived 10% of Data Zones (Scottish Executive 2005b).

This table shows that two thirds of the complainants lived in areas which were more deprived than the average for Scotland. There is a difference in the profile of complainants from Duncairn and that of those from Kinraddie, in that those in Duncairn tended to live in the more deprived areas. This partly reflects a difference in levels of deprivation in the two local

authorities. Duncairn has a higher proportion of council wards in the lower deciles than Kinraddie.

Ethnicity

Ethnicity information is also not straightforward and can only be realistically collected by asking people to self-define (Genn *et al* 2006). The people I spoke to were white and British. There was no-one who defined themselves as black or of any other ethnic origin. This undoubtedly creates a gap in my research. However, the purpose of the research was not to discover whether there are differences in experiences of people from different ethnic backgrounds. There is no shortage of research to show that people from minority ethnic backgrounds experience particular difficulties in accessing services or redress mechanisms (Bowes and Dar 2000, Genn *et al* 2006, Temple *et al* 2002) but research which is concerned primarily with exploring these difficulties requires a design that will select participants from minority ethnic backgrounds. The current research was not able to do this and the statistics collected by local authorities do not provide any information on the ethnicity of complainants as a whole. Anecdotally, complaints officers and social work managers said that people from minority ethnic backgrounds are unlikely to complain. For further discussion of this, see chapter eight.

Impairment

Definition of impairment is also problematic. The disability movement has argued that disability is socially constructed because the extent to which someone is 'disabled' depends on their social circumstances and the society

in which they live. Using impairments as a way of defining people is not helpful (eg Barnes 1991, Morris 1993). Arber and Ginn (2003) show that it is the interaction of impairment and ‘material, financial and cultural resources’ that make people more or less likely to need care services. However, for reference purposes, I asked the interviewees to describe the main impairment that they or their relative experienced and table 4g below summarises this information.

Table 4g Impairment of ‘service user’

Impairment type	Duncairn	Kinraddie	Total	% of total (n= 36*)
Physical Disability	14	11	25	78
Learning Disability	6	4	10	31
Mental health problems	2	2	4	11
Dementia	1	3	4	11

* Includes complaints made by advocates. Totals are greater because some people experienced more than one impairment.

It is difficult to compare this with the population of complainants from which the sample was drawn since local authorities do not routinely collect this information. However it can be compared with the pool of potential complainants, if these are considered as the population of service users. Most users of home care services have physical disabilities (80%) (Scottish Executive 2005c), around a third of users of day centres have learning disabilities and most residents of care homes have physical disabilities (Scottish Executive 2006d). Community care statistics do not give the full story because they do not cover people receiving one-off services such as

equipment and adaptations or less specific support services, neither do they include people who do not receive services but who believe that they should. However the general picture that table 4g shows is that service users had a range of impairments. It would be useful to look at whether people with particular impairments had more difficulty using complaints procedures (for example people with learning disabilities, people with mental health problems or people with visual or hearing impairments). This would require a study which focused specifically on these groups.

Chapter five

What do people complain about? Classifying complaints

This chapter addresses the question of whether there are two different kinds of complaint: those which concern decisions and those which are about processes. A distinction is made in some of the literature between grievances which are about decisions or 'outcomes' and those which are about 'processes' (Birkinshaw 2001, Dean *et al* 1996, Doyle and Harding 1992).

What types of complaints are there?

Doyle and Harding (1992), writing after the 1990 NHS and Community Care Act was passed but before its implementation, criticise the plan to make the complaints procedure the sole means of redress. They distinguish between 'complaints' and 'appeals', arguing that complaints procedures should be 'for users who are dissatisfied with the service they are receiving' and that their purpose should be to ensure adequate standards of service. On the other hand *appeal* mechanisms to an independent body ought to be available to people who wish to challenge a decision about allocation of services (pp80-81).

In a recent report on citizen redress, the National Audit Office draws a similar distinction between 'complaints' and 'appeals'. Complaints mechanisms are described as concerning 'processes and how issues have been handled', while appeals systems are described as concerning 'the accuracy or correctness of decisions' (National Audit Office 2005, p18). The

report recognises however that these distinctions are not always clear and recommends that central government departments which have these dual systems should consider a ‘closer alignment of [these] procedures’ (p14). Community care complaints mechanisms do not have these two separate systems for complaints and appeals, so, in a sense, already have this ‘close alignment’ to the extent that everything must be dealt with through the complaints procedure.

The small amount of empirical research on social work complaints does not tell us very much about the types of complaints that people make. Simons (1995) is reluctant to apply clear classifications to complaints on the grounds that they would be ‘meaningless or arbitrary’ (p40). He does, however, single out a large category (‘over half’) which he describes as being concerned with ‘rationing of resources’ (p40). Preston-Shoot (2001) finds that most complaints relate either to ‘unmet needs’ or to ‘poor quality services’ (p706).

Dean *et al* (1996) analyse complaints which reach the final stage of the social work complaints procedure (the complaints review committee) and identify two main types of complaint: ‘outcome complaints’ and ‘conduct complaints’. ‘Outcome’ complaints are about decisions regarding ‘rationing’ of services, while ‘conduct’ complaints are about delays, incompetence, quality of services etc (p343). They argue that a key difference between these two types of complaint is in the redress available.

My earlier research on community care complaints (Gulland 2003) looked in local authorities’ annual reports for evidence of different types of complaints.

I concluded that it is difficult to distinguish between different types of complaints reported in annual reports because of the wide range of classification systems used by the local authorities. These classifications are based on the views and concerns of the local authority and do not necessarily reflect the concerns of the complainants themselves.

One aim of the current research was to investigate further whether the distinction between complaints about outcomes and about processes is helpful and whether different redress mechanisms might be appropriate for different types of complaint. This chapter considers this question, using evidence from a database of all community care complaints in Duncairn over eighteen months and the evidence from interviews with complainants and social work staff in both Duncairn and Kinraddie.

Developing a classification scheme

One of my main sources of data on types of complaints was a database of 123 complaints made to Duncairn local authority over a period of around eighteen months. The complaints officer in Duncairn provided me with an anonymised electronic copy of the database. This contained brief records of the complaints, including an outline of each complaint (as summarised by the complaints officer), whether it was upheld or not and an outline of the local authority response. This provided the sampling frame from which the individual complainants in Duncairn were drawn. Although the database was anonymised, the individual nature of complaints meant that it was usually possible to match up the database entry with the interviewees. This

meant that, in twenty cases, I also had the complainant's view of what the complaint was about. Although Kinraddie council was not able to provide this level of detail about its complaints, the individual interview data are used in this chapter.

Initially I attempted to analyse the complaints recorded in the database according to the classification which I had developed during my earlier research on complaints procedures (Gulland 2003): dividing the complaints into those which were about processes, about outcomes or about council policies. The vast majority (85%) of complaints on the database seemed to be about processes rather than direct challenges to decisions made by the authority. Even those which appeared to be about decisions often shared some process issues, for example, delays and failures of communication. There were few which, on initial inspection, appeared to challenge local authority policy.

However, it became clear when I looked at the local authority's response to the complaint, and more so when I interviewed some of the complainants, that at least some of the 'process' complaints could also be interpreted as 'outcome' complaints. Particularly clear examples of these occurred when the initial description of the problem was 'delay'. The most striking aspect of all of these complaints was that the effect on the service user was that they had not (yet) obtained a service. What seems to have happened in many of these cases was that the client (or potential client) had asked for a particular service, had been assessed at a particular priority level and had then been placed on a waiting list. After what the complainant believed was an

unreasonable waiting period, they complained to the local authority about the 'delay'. Felstiner *et al* (1980) recognise the importance of delay when they say 'Rejection need not be expressed by words. Delay that the claimant construes as resistance is just as much a rejection as is a compromise offer (partial rejection) or an outright refusal' (p636). Rummery also makes this point in relation to community care services, arguing that delays are 'often effectively unavailable services' (Rummery 2002, p124). So it looks as if complaints about delays might, in practice, be about decisions.

On examination of the local authority's response to the 'delay' complaints, the reason for these delays could be one of several:

- an administrative problem had occurred (eg loss of papers, lack of communication between different parts of the department)
- the (potential) service user had been 'correctly' allocated a particular priority level and was on a waiting list and the delay was the result of pressures on resources, combined with local authority policy on priorities
- the (potential) service user had been incorrectly prioritised.

The main difference between these and the clear 'outcome' complaints on the database was that, in the latter cases, the complainant had *defined* their problem as a challenge to a decision. This, in many cases, resulted from the complainant's better understanding of how waiting lists worked and the systems of priorities. In these cases, the complainant, having experienced a similar problem to the 'delay' complainants, complained, not about the delay, but about the local authority *decision* to prioritise them in a particular way.

Similarly, some (although not all) of the complaints about staff behaviour or attitudes were effectively complaints about a non-provision of services. Examples of these include those where the attitude of a staff member had led to the complainant giving up on their attempt to get a service; where the complainant was unhappy with the way in which an assessment had been carried out (effectively a 'wrong' assessment); or where failure of staff to keep appointments led to non-provision of services.

I also looked at the database to see if there were any complaints about local authority policy. Although few of the complainants represented in the database appeared to be challenging local authority policy directly, it would be perfectly possible to argue that some of the failures to provide services were the direct result of local authority policies, either on prioritising, on staff resources or on staff training.

It appeared that the tripartite classification (process, outcome or policy), was not helpful and that it needed to be adapted. My next attempt at classification was to use the typology developed by Adler in his attempt to classify grievances that individuals might have against the state (2005). In this typology Adler combines a 'top down' classification of potential grievances, based on the concerns of administrative lawyers, with a 'bottom up' classification based on how people describe their grievances (p297). This typology contains the categories shown in table 5a.

Table 5a Adler's composite categories of grievances

'Composite' Categories	Examples
C1 'Decision wrong or unreasonable'	decisions perceived to be wrong or unfair; decisions involving discrimination; decisions that involve imposition of unreasonable conditions; refusal to accept liability.
C2 'Administrative errors'	records lost or misplaced; no record of information received.
C3 'Unacceptable treatment by staff'	staff rude and unhelpful; staff incompetent or unreliable; presumption of 'guilt' by staff; threatening or intimidating behaviour by staff; staff did not acknowledge mistake or offer apology.
C4 'Unacceptable delays'	delays in making appointments; delays in making decisions; delays in providing services.
C5 'Information and communication problems'	lack of information; conflicting or confusing information; poor communication; objections ignored by staff; lack of privacy.
C6 'Benefit/service unavailable or deficient in quality or quantity or too expensive'	benefit/service withdrawn (either for everyone or for some people); benefit/service not available (either for everyone or for some people); benefit/service deficient in quantity or quality.
C7 'General objections to policy'	policy unacceptable.
C8 'Other grievances'	other types of grievance not covered by categories C1-C7.

Table from Adler 2005, Table 6, p298

Using this typology I attempted to classify the complaints on the database according to the complaints officer's brief description of the complaint. I then looked at the local authority's response and it became immediately clear that most complaints could be classified differently once further information was added, including the local authority's diagnosis of the problem and

proposals for resolutions. Again, further dimensions were added where I had interviewed the complainant.

I encountered two problems with this classification. Some of the classifications are concerned with the *effect* of a problem on the services provided to the complainant, while others are concerned with the *cause* of the problem. While only the complainant can describe what the effect of the problem is, there might be many different views on what the cause is.

In an attempt to confirm this, I separated Adler's typology into those which seemed to be about the causes of problems and those that seemed to be about the effects on service provision. This is shown in table 5b.

Table 5b Causes and effects of problems

Causes
Decision wrong or unreasonable
Administrative errors
Information and communication problems
General objections to policy
Effects
Unacceptable treatment by staff
Unacceptable delays
Benefit/service unavailable or deficient

In an attempt to clarify the difference between the cause and the effect of a problem, I analysed the complaints on the database according to how the complainant had described the initial problem and what the local authority said about how it had been resolved. The cases on the database give only

partial information. The database entries quoted directly in this section come from the following sources:¹³

- ‘outline of the complaint’ – this is the complaint’s officer’s summary of the complaint, based on the complainant’s description of the problem;
- complaints section notes’ – the complaints officer’s description of what happened in response to the complaint

The data from the individual interviews help to bring out the complexities of the issue. The principal difficulty that I encountered with attempting to classify complaints by what had caused the problem was that complainants did not always know what the cause was. In some cases the complainants were clear about what they saw as the cause of the problem while others were less clear. Of course it is quite possible, perhaps likely in some cases, that the local authority would see the problem in a different way. Causes are very difficult to isolate. This can be illustrated by looking in turn at each of the ‘cause’ categories.

In the discussion below, examples are taken from the Duncairn database and from the individual interviews in both Duncairn and Kinraddie.

Causes of problems

Decision wrong or unreasonable

One of the problems with this category is that it assumes that the complainant knows that a ‘wrong’ decision has been made. In community care, unlike some more formal areas of state decision making, service users

¹³ See chapter three for examples of entries and for details of how this data was analysed.

are not always told when a 'decision' has been made. They may know that they have not received a service they have requested but they will not always know why this is. The examples in the Duncairn database illustrate this. Few of the entries in the Duncairn database were defined as complaints about 'decisions'. Descriptions of complaints were more likely to be about a lack of a service or a delay. For example, database case 43 says 'client unhappy about not being assessed as needing a walk-in shower'. It is not clear whether this is a challenge to a 'decision' or a request for an assessment. The complaints department notes show that a 'decision' *had* been made to refuse the shower. The notes show that the social work department believed that the assessment was 'correct' but that a reassessment would be carried out anyway. In case 47 the complaint is described as 'client refused financial help'. This looks like a straightforward disputed decision but the complaints department notes show that no decision had been reached on the request and that the failure to provide help was caused by administrative error. In a few cases where complaints were described as being about a wrong decision, this was because the complainant appeared to have some knowledge of how the system worked. For example a problem with a delay in providing bathroom adaptations might be described by the complainant as a 'wrong priority' rather than as a 'delay'. These examples show that categorising a complaint as being about a 'wrong decision' depends on understanding whether or not a decision has been made. Complainants do not always know this. The local authority may also hold a different perspective, arguing that it is not a 'wrong decision' but a policy matter. An example which illustrates this point is case 26, which was described on the database as 'Failure to treat assistance with food preparation as free personal care' (Database case 26, outline of

complaint). In this case the social work department argued that it was following Scottish Executive guidance on free personal care and that the decision was therefore correct. The authority was arguing that the case was about Scottish Executive policy rather than a 'wrong decision'. The complainant felt that the authority *had* made a wrong decision. Recent debate on this issue has shown that it continues to be controversial (see the discussion in chapter two on the case of food preparation and free personal care).

An example from the individual interviews, where a complainant saw a complaint as being about a wrong decision, concerned a delay in the provision of equipment and adaptations for his relative. Although his complaint was also about a delay and about administrative incompetence, the complainant saw it in terms of a 'wrong decision':

Alan Wood And today the biggest issue is the priority they've given my [relative]'s application. We totally disagree with that.

Researcher So effectively you're asking them to change the priority?

Alan Wood Yes we are.

This could also be interpreted as a policy problem, because the social work department accepted that the adaptations were necessary but resource restrictions meant that the client would have to wait for them.

Clearer examples from the individual interviews of 'wrong decisions' occurred with complaints about financial assessments. There were two cases involving the financial assessment for a relative's residential care costs where the local authority considered there to be 'notional capital' which was to be

taken into account.¹⁴ In both of these cases it was clear that the complainant believed that the council had made a ‘wrong decision’, arguing that the capital should not be treated in this way.

Administrative errors

Although administrative errors may well have caused the problem complained about, people rarely define their problem in this way; it is more likely that they will complain about the effect the problem has had on provision of services. There were many cases in the database where the local authority defined the cause of the problem as an administrative error. The complainant would not always be in a position to know that this had occurred. What they knew was that they did not get a service they were hoping to receive. The following case in the database illustrates this:

complainant first complained ..., in relation to delays in having building adaptations carried out. A letter of apology was sent ... explaining that a delay of several weeks had arisen as a result of paperwork being lost between area team and centre.
(Database case 85, complaints section notes)

Here, although the local authority recognised that there had been an administrative problem, the complainant complained about a *delay* in provision of services.

In another case the client’s complaint was phrased in terms of a problem with local office records. The ‘outline of complaint’ said: ‘No record of request for hand rail’ (Database case 48). The complaints section notes

¹⁴ This arises when the local authority considers that a resident of a care home has ‘notional capital’, for example from the sale of the resident’s house, which should be used to fund the costs of care (Mandelstam 2005).

showed that the reason for not providing the hand rail was that the client *had* been assessed but had not been sufficiently high priority to be moved up the waiting list. So, in this case, although the complainant thought that the problem had been caused by administrative problems, the local authority's investigation showed otherwise.

In the individual interviews, some complainants did identify an administrative problem as part the cause of the problem that had led to the complaint. Mary Nicholson's complaint concerned the failure of the social work department to provide home care services on her relative's discharge from hospital. The social work department told her that this had been caused by an administrative error. She told me 'The supervisor said it was the hospital's fault. They hadn't informed them properly.' Later on in the interview Ms Nicholson said:

The supervisors said 'we don't have enough money'. It's not that but not enough organisation. It's poor organisation.

Again there might have been an administrative problem or perhaps there was a problem with resources or priorities. The effect on the complainant was a lack of services. Although few complainants described the causes of their grievances in terms of administrative problems as such, many talked about general incompetence. Margaret Anderson was unhappy with the reaction of reception staff to her enquiry about home care services and their lack of knowledge of what was available. After a delay of several months she was visited by two separate social work staff. She felt she had said everything she needed to say to the first member of staff but the second one

said that she needed to do a full assessment, apparently having no information from the first visit.

Susan James had received some support from social work and occupational therapy immediately following an accident. A social worker had suggested that she should have a handrail installed at the steps at her front door and had promised to arrange this. After some weeks she phoned the social worker to see what was happening and was told that it was a housing department responsibility and she would have to follow it up herself. Ms James viewed the cause of her problem as one of incompetence:

I've had dealings with the social work department before and I'm not impressed with them at all. I think they're useless actually.

Although both of these complainants identified incompetence as the cause of their problems, both of their complaints were ultimately about failures to provide services.

Information and communication problems

There were a few complaints on the database where the immediate problem appeared to be to do with information and communication. However, there were many more where the local authority defined the cause of the problem as having been to do with communication:

Client complained about changes to day services at [day centre] particularly changes in use of certain rooms, without consultation with service users. ... There was a meeting of service users to talk about it but there is no minute of the meeting to check if the complainant was there or what information and apologies were given to service users.

(Database case 72, complaints section notes)

Client wrote ... complaining .. that she had been in receipt of home help services for almost a year and had been told that this service would be

entirely free of charge. [She had been sent a number of letters and bills for services but they had been sent to a wrong address.] The resolution of the complaint included an apology about the incorrect address and that her complaint had been forwarded to the debt control section of the council about the wording of their letters.

(Database case 29, complaints section notes)

Difficulties with communication were sometimes mentioned in the course of interviews with the individual complainants, but usually this was only part of their general problem with a lack of services. An example of this can be seen in an interview with an advocate about her client's attempt to get equipment and adaptations. The complainant had made a request for the adaptations and assumed that his complaint was about the delay in getting them done. The advocate discovered, when she pursued his complaint, that he was not even on the waiting list. This failure in communication by the social work department formed part of the problem, but the complainant's main concern was that he did not have the adaptations he had requested.

Communication problems were often highlighted in interviews with complaints officers or social work staff as the reason behind many complaints:

More often than not the complaint may be around a level of understanding and communication. So, often things come down to something not being explained to people.

(Social work manager 4, Duncairn)

So sometimes you can almost satisfy someone ... in terms of the complaint, by giving them an explanation which arguably they should have got in fuller form in the first instance.

(Social work manager 3, Duncairn)

The complaints officer in Kinraddie said that all complaints are about staff attitudes and communication:

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In a way all complaints are about the attitude of staff because the chances are that there are very very few things that if somebody didn't deal with it in the right way at the beginning, it would become a complaint.
(Complaints officer, Kinraddie)

These observations by those running the complaints procedure reflect the perceptions of the social work department. Those running the complaints procedure believe that many complaints could be avoided if social work staff were better at explaining things to people. This may often be the case but it is not usually the way that complainants see the problem. Their concern is more likely to be about a lack of services or about the way they have been treated.

General objections to policy

There did not appear to be many complaints on the database which specifically challenged local authority policy. However, again, I did find many where it could be argued that the problem had been caused by local authority policies. Case 62 concerned a decision to close a day centre and the resulting effect on the clients' services. The local authority saw that this was a policy decision. Case 63 concerned an application for equipment and adaptations where the local authority argued that a particular type of equipment would pose a health and safety risk and that it had a policy of not using this particular equipment. The complainant obtained independent advice on this, showing that there was no risk and persuaded the local authority to change its policy.

In both of these cases the complainant's concern was with a lack of services. The reference to policy came from the local authority, in its explanation of

how the problem had arisen. Complainants may realise that their problem is related to a council policy but their concern is more likely to be about the lack of services arising from the policy. Case 38, concerning a failure to provide bathroom adaptations also illustrates this. The complaint was lodged by an advocate from a voluntary organisation. The advocate framed the complaint in terms of the council's policy on prioritising adaptation requests:

... stating that the priority criteria laid out in the response are so restrictive as to rule out anyone who could benefit
(Database case 38, complaints section notes)

Although the social work department disagreed with the advocate's view of the case, the ultimate outcome of the complaint was for the client to be reassessed and given a higher priority:

Although the O.T had still assessed the client as P2, the manager had agreed to re-designate it as P1 in light of the circumstances of the family as a whole
(Database case 38, complaints section notes)

This illustrates the point that the cause of the problem may be disputed: the advocate saw it as a problem with council policy, while the social work department disagreed but changed the decision without accepting that a 'wrong' decision had been made either. The *reason* for the complaint was the failure to provide services.

Some individual interviewees identified a local authority policy as being the cause of the problem. However, their main concern was the failure to provide services or a problem with the way that services were provided. Helen Fisher's complaint concerned the transport arrangements for a relative attending a day centre, which were unpredictable and often left her relative hanging about waiting for up to an hour in the mornings. Ms Fisher was

quite clear that the problem here was the way in which the taxis were organised:

Then they tried to explain to me that their reasons were to do with the way they worked the taxis. [...] So I said [...] 'They'll have to get another system because that's not working'.

As a result of her complaint the taxi system was reorganised in the way that she proposed so that her relative would be collected at a predictable time every day.

Joan Pearson's complaint was that home care staff were sticking too closely to council policy on what they were allowed to do. The complainant felt that staff should be told that they could be more flexible in certain circumstances.

I was hoping that what would happen was that carers could be told that, on certain occasions, they would be free to go beyond their remit.

In both of these cases the complainants had identified aspects of council policy as being behind their problems and also saw how the policy could be changed to resolve them.

One of the advocates interviewed took the view that all the complaints he had dealt with were connected to policy in some sense. He explained that the complaints about delays in getting equipment and adaptations installed were connected to the council's policy of not having enough money in the budget:

Advocate C If someone's complaining about not getting a stair lift. It's because they haven't enough money and the policy is that once the budget's run out, you just wait until next year.

Researcher So would you regard almost anything as being a complaint about policy?

Advocate C Yes. It's either a complaint about policy or a complaint about how they interpret the law.

Although advocate C identified council policies as the reason behind problems, his clients were making complaints because the policies had an adverse effect on the services they needed.

One obvious policy issue is that of resources. A common reason for a failure to provide services is restriction on council resources. It could be argued that the problem therefore lies either with the council's decisions on the allocation of resources or on the funding of local authority services in a wider sense.

Many individual complainants recognised that their problem was ultimately about council resources and how these were prioritised. Complainants recognised that this meant that some people would lose out in this process and sometimes accepted that this was the way things had to be. However, on other occasions they were unhappy with the way in which a policy had been implemented (in other words a 'wrong decision') or with the policy itself.

Anne Gray complained on behalf of relative who had physical disabilities and learning disabilities. A policy decision had been made to change the way that services were provided so that his help was now centre based instead of home based. This meant that on some days there were not enough staff available and he was stuck either at home or in the centre. Ms Gray recognised that it was, at least in part, a lack of resources that lay behind the problem, saying that it was 'down to the fact that they're not adequately staffed'. She accepted that staffing was the cause of the problem but the effect was that her relative did not get the services he needed.

Other complainants, whose complaints concerned staff attitudes, specifically identified the low pay of staff as a problem. It could be argued that these complaints are ultimately about the policy of not paying staff more. The following examples illustrate this point.

Catherine Lawson's complaint concerned the attitudes of social work staff in a local office. She said:

I think maybe if social work was elevated a bit, better pay given to the ones on the ground, that might improve services; make people feel that it's not just a bottom of the pile service. Training, valuing people, that they are doing a first class job, because let's face it they are.

Joseph Kelly's complaint also concerned staff attitudes, in this case, the attitudes of home care staff. He considered that low pay contributed to the way some staff behaved:

The problem is that it's underfunded. They only pay a very, very basic wage. It [home care] needs to be recognised as a profession.

Social work staff also recognised that policies were behind many problems. Social work manager one saw that many complaints were effectively about policies. When I asked her what she could do about complaints relating to delays, she said:

Nothing. We can apologise and say 'I'm, sorry we can't meet your expectations', but it's not the responsibility of any individual, it's a political affair that goes all the way to the chief executive in terms of funding.
(Social Work Manager 1, Duncairn)

The question of what should be done about problems that have arisen as a result of council policies is a difficult one. On the one hand, service users have a right to complain about how the policy affects them individually, but, on the other hand, the local authority has the right to make policy decisions

about allocation of resources. Social work manager one, in the discussion above, argued that these were political decisions and so could not be dealt with through the complaints procedure. They could be dealt with by the complainant taking the issue up at a political level, either by contacting a political representative or by taking collective action; but these alternatives to complaining rely on the service user knowing that the problem has been caused by council policy. Some interviewees realised this and had used these options in the past. See also chapter eight for a discussion about whether the complaints procedure is an appropriate mechanism for dealing with problems that have been caused by council policies.

These examples show that, although there may be times when it is clear what the cause of a problem is, it is likely in many cases that the complainant and the local authority will have different perspectives on the cause. The complainant however will have a clear view of one thing: what the effect of the problem is on the provision of services.

Effects of Problem on Service Provision

Turning to the effects of the problem on provision of services, it was possible to find examples of each of the 'effect' categories in the database and in the interviews.

Unacceptable treatment

Some complaints in the database were clearly about staff attitudes or behaviour:

Attitude and unprofessional conduct of four members of staff on Area Team
- including the Manager
(Database case 34, outline of complaint)

A client complained that a [member of staff] had not given her appropriate support but had instead asked her a number of personal questions unrelated to her [case] and had made unprofessional remarks such as stating 'you don't look particularly depressed' on finding that she was on anti-depressant medication.
(Database case 51, complaints section notes)

These are examples of problems relating to attitudes or behaviour, although there may also have been other issues that were not spelled out in the database. The individual interviews show the strength of feeling that these problems can produce. Joseph Kelly's complaint concerned the attitude and behaviour of home care workers who came during one particular week when his usual workers were not available. He was very unhappy with their attitude:

They were telling me what to do, in my own home! [...] I was annoyed with their attitude. [...] Some days they were coming in and telling me to hurry up, telling me what to do, telling me they had to be somewhere else. That's not very good.

Catherine Lawson's complaint concerned an application for a grant to install equipment and adaptations in her home. The problem did not concern the application directly but the attitude of staff in the local office when the complainant enquired about how the application was progressing:

So it was a real muddle and it wasn't about the [money]. That wasn't what I was complaining about, it was the attitude of the staff, the reception staff.

However some complaints were also about the effect that poor attitudes have on provision of services, for example, not keeping appointments. Here the real problem appeared to be that complainant had not (yet) got the service they wanted. Some examples from the database illustrate these points.

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Complainant was unhappy with the way the occupational therapist had gone about assessing her for a shower and felt that the result was that she had not received the adaptations she needed.

(Database case 93, complaints section notes)

In this case the local authority accepted the complainant's view of the occupational therapist's attitude and apologised. The local authority disagreed that the assessment had been wrong but arranged a re-assessment anyway.

Case 31 also illustrates how the unreliability of staff can lead to non provision of services:

Complainant feels badly treated and forgotten about by the Social Work Department. Telephone calls not being returned.

(Database case 31, outline of complaint)

Here the local authority accepted that there had been poor procedures and delays. These had led to non-provision of services.

A couple of cases related not so much to the attitudes of individual staff as to the unreliability of the service the person was receiving. It was not clear in these cases whether this was to do with particular staff members or systems that were not working properly.

Unreliability was also described by individual interviewees as a source of their problem:

I made an appointment for me to go up and visit them which I did do and they denied all knowledge of yet [the social worker] had made the appointment and then she decided to be elsewhere at the time. They moved the appointment forward and I got my [relative] up and I got her ready and took her to the office and they denied all knowledge of it.

(Robert Donaldson)

Mr Donaldson's complaint related to the social work department's incompetence in arranging an appointment but he was also concerned because, as a result, he had not yet been able to organise the services that he and his relative needed. This shows that 'unacceptable treatment' can also overlap with 'unavailability of services'.

Delay

Many problems could be categorised as 'delay' but this was rarely the main issue – the concern was about 'non provision of services'. There appeared to be a particular problem in Duncairn with delays in providing equipment and adaptations. The effect of the delay was that the person had not (yet) got the services he or she wanted. Some delays were caused by administrative or communication problems: papers going missing, lack of communication between offices etc. Some delays were effectively 'wrong' decisions or were about policies (for example, waiting lists). Some examples from the database illustrate these:

Length of time taken to have a chair-lift installed in client's home.

(Database case 5, outline of complaint)

The local authority investigation into this case showed that client had been 'correctly' assessed and was on a waiting list. The question here is whether this is an example of a 'wrong decision' or a disputed policy. Case 85 illustrates this:

Has been awaiting internal occupational therapy adaptations for 20 months.
When enquired, told on waiting list for assessment.
(Database case 85, complaints section notes)

Here the client thought she was on a waiting list but the local authority's investigation showed that she was not; there had been a breakdown of communication between two offices and that this was the cause of the delay.

Several interview cases illustrate the difficulty of defining some problems as primarily about 'delays'. Alan Wood complained on behalf of his relative. She had applied to the social work department for equipment and adaptations and had been categorised as low priority. There was a series of problems with poor administration, letters being lost etc. Eventually the local authority apologised for the delays but confirmed their original decision on the priority level. This meant that the relative was still waiting for the equipment. This had been going on for 'two or three years'. Mr Wood could see that part of the problem was to do with the administrative delays:

[I] was writing to them, phoning them, e-mailing them but it was quite clear that the social work offices were not talking to each other... I mean that messages weren't getting passed on. They indicated in one of their letters, they admit that the communication within the department had become fragmented.

However he was also complaining about the level at which his relative had been prioritised.

Elizabeth Ross complained after she made an application for a grant to have adaptations carried out in her home. The complaint was about the delay in getting a decision on the application. Following her original application she waited ten months for someone to come and assess her. When no-one came

she contacted the local office and someone came out and did the assessment. When she did not get any decision on her case after the assessment she complained and was told that she had been turned down, although she had not received any correspondence on this. She made another complaint at this point.

There were other cases where the immediate issue was a delay in providing services but the attitudes or behaviour of staff or the apparent incompetence of the local authority was what had pushed the problem into a 'complaint'.

An advocacy agency complained on behalf of a client who was trying to move from residential care to her own home in the community. The complaint concerned the delay in arranging the necessary services to do this.

My complaint originally went in because I wasn't pleased with the treatment I was getting from the social worker. I was getting this attitude that he couldn't be bothered because it was away through in [another area].
(Advocate T)

The thing that pushed the advocate into making a complaint was the staff attitudes rather than the delay as such.

These examples show that delays certainly give rise to complaints. However, in this research the complaints were primarily about the failure to provide a service. There were no examples of people complaining about a delay *after* the relevant service had been provided. This contrasts with complaints in health services, where people do complain about delays after the service has been provided.

Service unavailable or deficient

Adler's 'service unavailable or deficient' category includes those services which are deficient either in terms of quantity or quality (Adler 2005, p298, see table 5a above). Some complaints are straightforwardly about services being unavailable. Others are about the quality of services provided. Some clear cases of services being unavailable are illustrated by the following examples:

Reduction in home support from 9 hours to 4.
(Database case 58, outline of complaint)

As a result of the complaint the client's position was reassessed and home support was increased 'through re-structuring of shopping vs other tasks'.

Case 24 also concerned deficient services where the complaint was described in the following terms: 'client received an unacceptable level of service on his discharge from hospital' (Database case 24, outline of complaint). The local authority response makes it clear that this problem arose because of a breakdown in administrative procedures, rather than a refusal to provide services but the effect on the complainant was that s/he did not get the services s/he needed.

In one of the interviews, the complaint was clearly about non-provision of services although the complainant was not sure how the problem had arisen. Sandra Hunter's complaint had been about the transition from children's to adult services when her relative left school. She had been well supported by various services but nothing was in place for her after she left school:

CHAPTER FIVE – WHAT DO PEOPLE COMPLAIN ABOUT? CLASSIFYING COMPLAINTS

Social work were supposed to come up and discuss it but nobody showed up. I was getting browned off with them saying they would send somebody and there would definitely be somebody there and they weren't.

The reason for this failure to assess her relative or to provide services was not clear to Ms Hunter.

Janet Lucas complained about a problem with home care services. She needed home care services several times a day to help her with all aspects of personal care. Her complaint concerned a recent period when she was discharged from hospital and was told that carers could not come at weekends:

They said I couldn't come home from hospital unless I had this care but they couldn't cover the weekends so I had to get private help for the weekends from a private agency.

Ms Lucas did not know how this problem had arisen but she was quite clear about the effect that it had on her services.

Another interviewee complained when the local authority appeared to have changed its mind about services to be provided for her relative. Angela Macdonald complained about arrangements for her relative's activities during the day. She had been going to a particular centre and it had been agreed that she should continue for another year and that social work would pay her transport costs. This decision was then changed so that they would not pay for the transport and that she should go to a day centre instead. The reason for this change of decision was not clear to Ms Macdonald but the effect on her relative's services was obvious.

Quality of services provided

Some complaints were concerned more with the quality than with the quantity of services provided. One aspect of quality which raised complaints was unreliability. Evelyn Johnston complained about unreliability of her social worker, who was not visiting as frequently as she thought was necessary and was not following through things he had promised to do.

He wasn't seeing me a lot so I complained about him because he was supposed to come out every two weeks and he wasn't doing his job right.

Kenny Fraser complained about home care staff who came to help him with getting up in the morning. His complaint was about the unreliability of care staff, turning up at unpredictable times or not at all.

But we had two that came in very regularly. They were no bother. They just came in and did their job and that was fine. Suddenly it all started to go wrong somehow with carers turning up late or not turning up at all.

He did not know why there had been this sudden change in the reliability of staff but he was inconvenienced by it.

Another 'quality' complaint concerned damage to a relative's clothing caused by laundry staff in a residential care home. This had been going on for some months and the complainant was expected to pay for replacement clothing.

The category 'service unavailable or deficient' can be separated roughly into those about quality and those about quantity of services, although this distinction is not always clear. For example, poor quality services could be caused by basic shortage of staff or time available to provide an acceptable standard of services. Ian Grant's complaint about home care for his relative

illustrates this. He complained about the way in which the home care staff went about getting his relative up in the mornings. His solution to the problem was simple:

Their job, as I see it, is to help the disabled person live their life in their home and if one person couldn't get her in and out of bed, then send two. As far as I was concerned that's all there is to it. [...] I know there are about half a dozen home helps floating around there in the morning. It wouldn't have taken rocket science to say to [another home care worker] 'nip in there and get [my relative] up and dressed'

His dispute related to the quality of services provided but he saw the solution in terms of quantity: allocate more staff.

Financial issues

Adler includes a category of 'benefits or service too expensive' in his typology (Adler 2005, p298, see table 5a above). There did not appear to be any examples of this *per se* in either the database or the individual interviews. Disputes regarding financial issues seemed to be more likely to concern financial assessments for services or disputes about particular bills. There were several cases concerning financial issues in Kinraddie. Two were concerned with the issue of 'notional capital', whereby funding for residential care is refused because the resident is considered to have capital from the sale of a former home. In both cases the houses had been sold but the capital was no longer available. The remaining three financial cases concerned bills for residential care for relatives. One concerned a bill for respite care for a period when the relative had not been in care, another concerned a 'cancellation fee' for a relative who had moved out of a residential care home and the third concerned a bill for respite care which the complainant had originally been told she would not be charged for.

Although the bills had arisen for quite different reasons, in all five cases the complainants denied that they owed the money. These complaints looked as if they belonged in a specific category relating to financial issues.

What do people complain about? Using the classification scheme

It is clear from these examples that the cause of a problem can be interpreted in different ways. However the effect on service provision is usually less contentious. The separation of Adler's 'composite typology' into causes and effects appeared to solve the problem of how to classify complaints. However it also seemed to be possible to separate the category 'service unavailable or deficient' into two further categories: those concerned with quantity of services and those concerned with quality of services. This distinction is not always clear but proves to be useful. A fifth category, concerning cost of services, also looked as if it would be a useful additional category.

Using these five 'effects' categories, plus a category of 'other', I was then able to classify the complaints in the database and those in the interviews. The analysis is shown in table 5c below.

Table 5c Types of complaint

Type of complaint	% database (n=129)	% of complaints Duncairn* (n=27)	% of complaints Kinraddie* (n=17)	% of all complaints in this study* (n=44)
Unacceptable treatment	25	30	12	23
Delays in providing services**	26	15	0	9
Service unavailable or deficient	29	37	30	34
Quality of services provided	16	18	30	23
Financial issues	1	0	30	12
Other	2	0	0	0

*The number of complaints is greater than the number of interviews because some people complained about more than one issue.

**In practice all the cases relating to delays led to the service not being provided. Although it is theoretically possible that someone could complain about a delay after the problem is resolved, there appeared to be no examples of this in the database or the interviews.

With such small numbers it is not possible to make generalised statements about the types of complaints in each of the local authority areas. However, there are two types which appear to stand out: delays in Duncairn and financial problems in Kinraddie. Discussions with the two complaints officers supported the view that these were areas which had led to particular problems in their respective authorities. The complaints officer in Kinraddie agreed that financial complaints were common in that authority although the proportion in my sample was higher than that in the complaints received in the previous year. This could be explained by the fact that people making these types of complaints might have been more likely to respond to my research letter. I was struck by the apparent lack of complaints about

financial issues in Duncairn. The complaints officer could not provide any explanation for this. One possibility was that financial complaints were somehow being diverted from the formal complaints procedure and being dealt with separately but the complaints officer in Duncairn did not think this was the case.

Who complained about what?

There are some patterns to be found in the data concerning the relationship between who complained and what the complaint was about. This is shown in table 5d. However, the very small numbers involved means that these patterns must be considered with caution.

Table 5d Types of complaint by complainant

Type of complaint	Number of complaints		
	Service user	Relative	Advocate
Unacceptable treatment	6	3	1
Delays in providing services	2	1	1
Service unavailable or deficient	9	4	2
Quality of services provided	6	4	0
Financial issues	0	5	0

The only clear pattern here is that the complaints relating to financial issues were all made by relatives. This is not surprising, since they all concerned bills for residential care or respite care where the relative was responsible for

the service user's finances. There was no particular pattern relating to age, gender, social class or type of impairment.

Changes of circumstances

Despite the fact that many complainants were long term users of services, it appeared that many complaints related to a change of circumstances of some kind. Parry *et al's* (2004) study of the needs of older disabled people shows that changes of circumstances, such as deterioration in health, moving into residential care, bereavement or discharge from hospital, are key 'trigger' points when older people may need support. The current research was not only about older people so the needs of younger disabled people are also relevant here: youth transition (moving on from school) and moving house (which could apply to people of any age). Table 5e summarises whether a change of circumstances had prompted the complaint.

Table 5e Complaints and changes of circumstances

Change of circumstance	Number	%
Request for services (as a result of health deterioration or recently acquired disability)	13	36
Short term needs as a result of discharge from hospital	4	11
Move to residential care (or change of residential care)	4	11
Youth transition	2	6
Service user had moved house	2	6
Withdrawal of services (not related to personal circumstances)	1	3
Total complaints relating to change of circumstances	26	73
Total complaints where there was no change of circumstances	10	28

Table 5e shows that most complaints related to a change of circumstances of some kind, rather than an ongoing problem with the social work department. Those that did not concern a change of circumstances were almost entirely about the quality of services provided. Those that did involve a change of circumstances were about the full range of problems, including failure to provide a service, attitudes of staff, delays in service provision and financial assessments.

One remaining question is whether there are things that people do not complain about. Among the thirty-six individual complaints there were no formal complaints about neglect or abuse. This would be a sub-category of 'unacceptable treatment' but one with particularly serious consequences. One of the interviewees had been concerned about the way his relative was being treated in residential care home but chose not complain about this. The

reasons for this are discussed in chapter eight. On the database there was one complaint that could be described in this way. There are several reasons why complaints of this type may not appear in social work complaints procedures: one is that this type of problem may be more likely to occur in residential care. Most residential care is now provided by the private or voluntary sector (Scottish Executive, 2006c). Complaints about private or voluntary residential care would be dealt with by the provider in the first instance or by the Scottish Commission for the Regulation of Care rather than the local authority. However there could still be problems of abuse or neglect in the remaining social work run homes or by home care staff. There is some evidence to suggest that people are reluctant to complain about abuse or neglect (Harding 2005, p131, Office of Fair Trading 2005). Chapter eight discusses in more detail why people do not make complaints.

Although useful in describing the range of complaints that people make, the classification discussed above does not answer the important question of what is the best way to deal with complaints. Another way of looking at this is to consider the redress that the complainant wants. Writers on this issue have suggested that separate procedures may be more appropriate for 'outcome' complaints and 'process' complaints (Doyle and Harding 1992). Dean *et al* (1996) argue that a key difference between these two types of complaint is in the redress available: with outcome complaints redress would involve providing the service requested, while with 'conduct' complaints, it is less clear what the redress ought to be and the best available outcome may be an apology (p344). The next part of this chapter considers the type of

redress that complainants were seeking and whether this can illuminate the question of ‘what complaints are about’.

What Does the Complainant Want? Types of redress

I was not able to answer the question of what complainants want by looking at the complaints in the Duncairn database. The database told me what the local authority had done about the complaint but not whether that had satisfied the complainant. LLOYD-BOSTOCK and MULCAHY show, in their research on hospital complaint letters, that complainants describe their concerns differently in ‘complaint letters’ from the way they describe them in interviews. LLOYD-BOSTOCK and MULCAHY attribute this in part to the lack of confidence that patients have in challenging the medical profession and that people are more likely to be more forthcoming in individual research interviews than in their letters of complaint (LLOYD-BOSTOCK and MULCAHY, 1994). It is quite possible that a similar lack of confidence would be found amongst social work clients. The discussion below is therefore based on the interview data alone.

Writers on administrative grievances have looked at ‘what complainants want’. The National Audit Office report on citizen redress talks about ‘getting things put right’, implying that it will be clear what this will involve (2005, p7). The recent White Paper on administrative justice also talks about ‘putting things right’ but distinguishes between ‘correcting’ decisions and giving apologies.

A key question will be the extent to which people are looking (just) for a legal remedy, like an award of a disability benefit. Or whether they might

really be seeking something else, like an apology or a clear explanation. (Department for Constitutional Affairs, 2004, p6).

Lloyd-Bostock and Mulcahy show in their study of complaints about hospital care that complainants are not often looking for redress because, in fact, most complaints are about events that are in the past. Instead they are looking to 'call the authority to account' for 'violating a normative expectation' (1994, p449). Hospital complaints are perhaps unusual in rarely having an 'instrumental' purpose. Cowan and Halliday (2003) consider the 'aims' of respondents seeking internal reviews of decisions under homeless persons legislation and conclude that they can be broadly categorised as 'reversal of decision' or, following Lloyd-Bostock and Mulcahy, 'calling the authority to account'.

This contrasts with research on 'justiciable problems' in the Paths to Justice studies by Genn (1999) and Genn and Paterson (2001), where 'calling to account' appeared to be very low on the list of what interviewees wanted. In only 1% of cases did respondents say that they wanted 'to prevent the same thing happening to others' or an apology (Genn and Paterson 2001, p183). None of those with consumer problems said that their main objective in taking action was to prevent the same thing happening to someone else (Genn and Paterson 2001, p184).

This suggests that, despite the rhetoric of consumerism, social welfare problems are different from consumer problems and that there may be an expectation that grievances are about more than just the individual complainant.

It is difficult to work out what the complainants in this research wanted at the start of their complaint because their views may have changed as the complaint progressed. In fact it may well be that it is the way that their problem has been dealt with (or not dealt with) which turns it into a 'complaint' (see also chapter six). The analysis below is therefore based on what people said about how they felt about the redress they had expected and/or received at the time of interview, which, in all cases, was many months after the initial complaint had been made. Some people wanted more than one thing, for example for a service to be provided and an apology. Others were quite clear that they only wanted to get their problem 'sorted out'.

An analysis of what interviewees said they wanted to achieve from their complaint produced the following categories of redress. These can be roughly divided into categories concerned with individual redress and those that involve some 'calling to account' of the authority concerned. Table 5f shows the percentage of complainants seeking each type of redress.

Table 5f Types of redress sought by complainants

Redress expected	% in Duncairn* (n=20)	% in Kinraddie* (n=16)	% of all complainants* (n=36)
<i>Individual redress</i>			
Service to be provided	60	50	55
Apology	25	19	22
Financial issue to be resolved	0	31	14
Change of staff	15	6	11
Clarification of position	10	0	6
Compensation	5	0	3
<i>Calling to account</i>			
Reassurance that it would not happen again (to self or others)	40	19	30
Vindication	10	37	22
Disciplinary action against staff	0	6	3
<i>Other</i>			
not clear	5	0	3

*Percentages add up to more than 100 because some complainants sought more than one form of redress.

Comments from individual interviews illustrate the way in which complainants talked about the redress they had been seeking. These are discussed below.

Service to be provided

Many complainants complained because they wanted a service to be provided. This was not necessarily their only objective in complaining but it was often the most important one. Sandra Hunter's complaint had been about the transition from children's to adult services when her relative left school:

Researcher So what was it you were looking for from social work?

Sandra Hunter I wanted them to come and get somebody for her, you know, a care manager or something.

Maureen Taylor had asked the social work department for various pieces of equipment to aid her hearing. The occupational therapist refused to provide this.

Researcher So the complaint was just about getting the equipment?

Maureen Taylor Yes. About getting all the things that I needed because of going deaf.

The redress sought was clear in both of these cases, as in other in similar ones. The main reason for complaining was to obtain services.

Clarification of position

In a couple of cases the complainant wanted a service to be provided but they also wanted clarification of what was happening. This was particularly so in those where there had been a problem with delays. Elizabeth Ross complained about a delay in having equipment installed in her home. She wanted the equipment to be provided but she also wanted to have some idea of how long it would take and whether she was ever going to get it.

Researcher So it was really the delay you were complaining about?

Elizabeth Ross The delay was terrible because all this time I was hoping to get my bathroom done up and I just wanted them to say 'yes' or 'no'.

Apology

An apology was important to some complainants. Many had received apologies from the complaints department but said that they would also have liked an apology from the person who had caused the problem.

In the end they apologised over the phone but I got no apology from the people that issued these things. But I got an apology through the [complaints officer].

(Jennifer King)

Probably an apology from the people concerned. The ones who missed the appointments. If they'd apologised and said 'we're very sorry. We're inundated with work, it just slipped through'. That would have been understandable.

(Robert Donaldson)

Other complainants were dismissive of apologies as a solution to their complaint. They felt that apologies were meaningless and what they wanted was some action.

And full of apologies. I don't know how many apologies I got from them. A council department should not be in that position of having to apologise to people.

(Susan James)

No. I wasn't looking for that [an apology]. I just didn't want that kind of situation to arise with anybody else. That was the reason for the complaint.

(Joan Pearson)

See also chapter six for a discussion of the role of apologies and whether people were satisfied with the apologies they received.

Change of staff

In some cases the complainant was quite clear that one of the main purposes of the complaint was for a particular member of staff to stop providing services for them. It was possible that they also wanted to make sure that the problem did not arise again, either for themselves or for other people, but their main priority at the point of complaining was that a particular member of staff should stop providing services to them. These cases all concerned home care.

Claire Elliot had been receiving home care services for seven years. Her complaint was about an occasion when the unreliability of a staff member had caused particular distress. She explained what happened:

They just said that this woman was being taken away but I wouldn't have had her back anyway.

Joan Pearson's complaint was about one incident when she had been unhappy with the attitude and behaviour of a particular home help.

Researcher But you were hoping that this particular woman wouldn't come back?

Joan Pearson Well she was told not to come. I wouldn't have had her back.

Evelyn Johnston complained about her social worker who was not visiting as frequently as she thought was necessary and was not following through things he had promised to do.

Now I've got what I wanted - a lady social worker. Because he [former social worker] never did anything.

Some of these complainants also wanted to make sure that the problem would not arise again and so their complaints also had an element of calling the authority to account but they did want their individual needs to be met by not having to deal with these particular members of staff again. None of these complainants expressed an explicit desire for the member of staff to be disciplined (see below).

Financial issue to be resolved

The problems in the five cases in Kinraddie concerning financial issues had arisen for different reasons; two concerned 'notional capital' rules, the other three concerned disputed bills for services. All five complainants wanted the bills to be cancelled. However some of them also wanted to ensure that incidents like this would not arise again or wanted some acceptance from the local authority that there had been a mistake (see below).

Compensation

There was only one case where compensation was discussed. Irene Burns had complained about damage to her relative's belongings. She eventually received financial compensation for some of the damaged belongings.

So I don't know how long it was after that but I got a cheque for £80 which I was quite pleased with. It was the majority of my money back.

However she was also concerned to make sure that the incident wasn't repeated, either with her relative's belongings or with other people's.

I was quite happy because they gave me back most of what I'd spent and I haven't heard of it happening again. ... It seems to have been sorted but how long that message will stay there, I don't know.

Reassurance that it would not happen again (to self or others)

The examples above illustrate cases where the complainant wanted some kind of individual redress. A strong theme in some interviews was that the complaint should prevent the experience happening again, either to themselves or to anybody else. The redress that people sought in these cases seemed to be more to do with calling the authority to account. Examples of these types of redress are described below.

Thomas Beattie made a complaint relating to the care of a relative in a private nursing home and a subsequent dispute with the social work department about the fees for this. His immediate concern was to have the bill for the fees cancelled but he also said:

I hoped ... it was one of the reasons that I started writing to the head of social work. I wanted him to be aware of what was happening in the social work department and that steps would be taken to make sure that a similar incident wouldn't happen again.

Susan James made a complaint about a delay in having adaptations fitted to her house. In fact she had not been too bothered about getting the adaptations done in the first place:

Then when she was going out, the physiotherapist had suggested I get a handrail at the door. I said 'don't bother'. I couldn't be bothered with the hassle. So when she was going out, she said, 'I think you need a handrail'. Well I'd been asked that so often, I said 'well all right carry on, just get the handrail'. She said 'I'll attend to that'.

A social work official had recommended that the adaptations should be carried out and Ms James thought that she might as well go ahead with them. However, after a considerable delay she made a complaint and after

another 'eighteen months of correspondence', Ms James was so exasperated by the whole process that she wanted a full report on what had gone wrong and an explanation as to what was going to be done to prevent similar problems arising again. In her case it was the way the complaint had been handled rather than the initial problem that made her want to call the authority to account.

Anne Gray, who had been caring for her relative for many years and had made complaints in the past, felt that any time she had complained would help other people as well:

Anything I've done in the past has not just benefited my [relative]. It's benefited other people as well. It's not just him, it's the rest of them as well because everything that affects him affects them too. So if they get something sorted out because of that complaint, that's excellent, that's what it's about.

Some complainants on the other hand did not seek a reassurance that the problem would not arise again. Janet Sinclair had complained about a problem with staff attitudes in a residential care home where her relative lived but regarded it as a one off incident.

Disciplinary action against staff

It has sometimes been argued that some complainants want retribution in the form of disciplinary action against staff. Mulcahy (2003) however argues that this is rarely a motivation with health complaints (p94). Although several of the interviewees in this study did not want services to be provided to them by a particular member of staff (see above) they did not express a wish for that person to be disciplined. Only two of the people I spoke to considered

this an aim of their complaint (one talking about a previous occasion when they had complained).

Dorothy Henderson's complaint related to the behaviour of a particular social worker at the time of a relative's discharge from hospital. The complaint concerned the attitudes and actions of the social worker. After months of dealing with social work management and the complaints procedure, she eventually received an apology for the incident. I asked Ms Henderson if she had got what she was looking for:

Researcher When it was all finally concluded, did you feel you got what you were looking for, or were you looking for something else?

Dorothy Henderson I feel she [the social worker] should have been reprimanded in some way.

This was the only time that a complainant said this, apart from Helen Fisher who described an incident that had happened some years ago (not the subject of the recent complaint) when a care worker had acted inappropriately in providing care for her relative. She had made a complaint about this incident but had not pursued it as far as she would have liked to because of her own ill health at the time. Her view was that the member of staff should have been disciplined and also that the incident should have been investigated by the police.

Vindication

In several cases the complainants were quite clear that part of their complaint was about vindicating themselves. There had been some accusation that they were in the wrong and they wanted it to be made clear that they were not.

This was particularly clear in the cases concerning financial issues, where four of the complainants had been pursued by the debt collection department of the local authority.

I wasn't worried about the money but I didn't want my reputation being [pause] ... I knew it wouldn't go elsewhere but it was just so frustrating, getting these letters.
(Jennifer King)

I wasn't expecting her [my relative] to go into a home. Nobody knows what's in front of them. They thought that we did it [disposed of the capital] deliberately. That's what the galling part is, that [they thought] we did that deliberately.
(Julie Douglas)

In some of the other cases there was also a sense that the social work department admitting it was wrong was an important part of the resolution of the complaint.

I was very angry about it because a social work manager came to see me and I told him I was angry and why I was so angry and upset, and he turned round and said 'maybe there's something else that's making you feel that way'. That was a terrible thing to say. I know he probably didn't mean any harm in that comment but that was a terrible thing to say.
(Joseph Kelly)

What you need is someone to say 'I'm sorry it's happened. We made a bit of a mess up here'. It's when they take this attitude that 'no we didn't get the papers'. That you're in the wrong all the time, that's what makes people upset.
(Catherine Lawson)

On the other hand, Thomas Beattie was not concerned about the social work department admitting responsibility for a problem with an invoice for his relative's residential care. They had finally cancelled the invoice and that was all that mattered to him.

Researcher But they haven't admitted that they were in the wrong?

Thomas Beattie No.

Researcher Does that bother you at all?

Thomas Beattie It doesn't bother me.

Conclusion on redress

Clearly what people want from their complaint will vary according to what they are complaining about. Some complainants will want redress in the form of a changed decision or a service to be provided, some will want an apology and some people will be more concerned with calling the authority to the account.

Galligan (1996, p7) argues that 'an elaborate system of tribunals, procedures and remedies would be wasted if all that is sought by complainants is a letter of acknowledgement and perhaps an apology'. My research suggests that people do not just want an apology - they want some acknowledgement that something will be done about it and that it will not happen again either to themselves or someone else.

The question of what the complaints procedures should be able to offer in the form of redress depends in part on the purpose of the procedure. (For further discussion of this, see chapter nine.)

Conclusion

This chapter shows that complaints can be classified in four different ways:

- cause of problem (as seen by complainant) and hence the solution
- cause of problem (as seen by the local authority) and hence the solution
- effect of initial problem on provision of services to the complainant
- redress expected by the complainant

The value of each of these four types of classification depends on their purpose.

If the purpose of the classification is to find out what goes wrong with public services in order to prevent problems arising again, then the classification must address the cause of the problem. It is difficult to work out what the cause of the problem is because causes are not always clear. The complainants do not always know what the causes of their problems are, although they may have strong opinions about what the causes might be. The local authority has more information than the complainant on what has gone on behind the scenes but the question of whether the problem has arisen because of an administrative failure or a 'wrong decision', or because of a basic shortage of resources, is more difficult to answer. The local authority will have a view on this and local authorities tend to focus on causes when classifying complaints in their annual reports, produced for the purposes of reporting to management, often highlighting 'resources' as the cause of the problem (Gulland 2003). Others, looking at the same problems, might identify the causes as 'mismanagement' or 'maladministration' or

might focus on a political issue such as the way in which resources have been allocated and prioritised.

If the purpose, as in this research, is to find out how complainants view problems and how they deal with them, then the perspective of the complainant is the key and the classification could be based on the impact of the problem on the complainant or on the redress expected. This requires in-depth discussion with complainants and would be difficult to ascertain from documentary records. Studies which take this approach to citizens' disputes include those by Genn (1999), Genn and Paterson (2001) and Pleasence *et al* (2004). In these studies the researchers are interested in how people deal with a range of 'justiciable problems' such as housing, employment, money or relationships. The focus is on how people approach these problems but not on how the problems arise in the first place.

If the purpose of the classification is to consider whether different procedures might be appropriate for dealing with different types of complaint, then it is important to look at the redress the complainant expects. This is difficult to ascertain and the complainant's views can change over time. The data from this research suggest that, although complaints can be classified into different types, they do not always fall neatly into those about outcomes (where redress might take the form of provision of a service) and those about processes (where redress might take the form of an apology). A distinction can be drawn between complaints where individual redress of some kind is sought and those which involve calling the authority to account. Many complaints will contain elements of both.

The question of how best to deal with complaints, given that complainants will have different reasons for making complaints, depends on the purpose of the complaints procedure as a whole. This is dealt with in chapter nine and will be returned to in the concluding chapter.

Chapter six

Making a complaint

This chapter looks at the experience of those who made complaints and considers the relative value of 'informal' and 'formal' processes. It goes on to look at what happens when people make formal complaints, whether complaints are resolved and what people think about this.

The data considered in this chapter come, in the first place, from the individual complainants, all of whom had made 'formal' complaints. The chapter considers their experiences of using the formal procedure: how their grievances came to be recognised as 'complaints' and what happened to them. The individual complainants also talked about the differences between informal and formal approaches to making complaints. The experiences and opinions of focus group members are also considered. Most of the focus group members had not made 'formal' complaints, although many talked about problems which they could have raised as complaints. In some cases they had taken these problems up with the local authority but they had rarely been defined as 'complaints'. The views of complaints officers and social work managers are also taken into account.

What is a complaint?

One of the difficulties in conducting research on complaints procedures is defining what a 'complaint' is. This is because most complaints procedures involve a first stage or 'informal' level. This is frequently held up as being more user friendly, in contrast to formal and bureaucratic procedures

(Leabetter and Mulcahy 1996). Complaints made at this level are less likely to be recorded in official statistics or to be reported in annual reports.

My preliminary research amongst key informants in the voluntary sector suggested that using the formal complaints procedure is unusual and that voluntary sector workers are more likely to just contact the local authority and 'sort the problem out':

[our staff] try to use other methods to avoid using complaints procedure, eg talking to other social work staff – if there has been a problem they tend to go to staff for advice and it gets sorted out that way.
(Interview, voluntary organisation)

The idea of sorting out problems without getting into bureaucratic procedures runs through much of the literature on complaints procedures, including the local authorities' annual reports on complaints, as typified by the following statement:

The reason for the relatively low number of complaints can partly be attributed to the policy of resolving complaints informally.
(Scottish local authority annual report, cited in Gulland 2003)

The question that arises is whether this attempt to 'sort things out' is the same as a complaint and whether or not it matters what it is called. On the face of it, it does not matter. What matters is that the person's problem is resolved.

The current Scottish guidance on the social work complaints procedure prescribes a first level where complainants should have the opportunity to resolve their grievance 'informally' (Scottish Office 1996). If they are dissatisfied with this, complainants can move on to a formal stage. This is common in complaints procedures in other fields (Leabetter and Mulcahy

1996, p6) and is usually held up as a key part of the procedure. However, one of the problems with informality is that it tends to leave little trace of what happened. Whether complaints are recorded or not depends on a wide range of issues. Mulcahy and Tritter (1998) identify 'local practice, screening procedures, interpretation of the boundaries of discretion and attitudes to complaints' (p841). Simons (1995) notes considerable 'under-recording of so-called informal ... complaints' amongst local authorities (p18). My own research on Scottish annual reports suggests that in most cases 'informal complaints' are not recorded (Gulland 2003). As a result researchers have found it difficult to find out how effective these 'first stages' actually are (Mulcahy 2003, Simons 1995). Where research *has* uncovered the views of complainants at this level, much dissatisfaction has been found (Braye and Preston-Shoot 1999, Simons 1995).

This dissatisfaction was recognised in draft guidance from the Department of Health on the new English social care complaints procedure, which was much more forthright than it had been in the past, or than the Scottish guidance is, about the role of informal complaints and the need to record them:

The concept of resolving problems by the staff immediately concerned, without recourse to a formal and time-consuming investigation is a popular one. However there are concerns that without some constraints this informal stage can drag on and prevent complaints having access to the more formal stages.

(Department of Health 2004, para 3.6.2)

The finalised guidelines go on to set time limits on this 'informal' or 'local resolution' stage and also require that *all* complaints, including these first level complaints, are recorded (Department of Health 2006a, para 3.5).

However, the new English guidance still requires a ‘complaint’ to be recognised as such by front-line staff. Defining complaints is not easy. There is often an assumption that once a person has decided to take action they will ‘make a complaint’ and that they will become involved in the ‘complaints procedure’. However, this is not so straightforward, since not all actions taken by the dissatisfied ‘complainant’ will be recognised as ‘complaints’ by staff, by voluntary organisations acting on behalf of service users or even by service users themselves. It is also important to note that some ‘problems’ only become ‘complaints’ as a result of the complainant’s experience of the complaints procedure. This is noted by Mulcahy in her analysis of health complaints (Mulcahy 2003, p63).

The revised English guidance on social care complaints acknowledges that there is a fine line between a ‘complaint’ and a ‘problem’ and emphasises that service users should always be aware of their right to have their problem recognised as a ‘complaint’:

Staff should consider when an unresolved problem becomes a complaint. It is important to ensure that attempts at problem solving should not be used to divert an eligible person from making a complaint under the statutory procedure.

(Department of Health 2006a, para 6.1.2)

In the field of health complaints Mulcahy and Tritter (1998) have shown that there can be a difference of understanding between complainants and health authorities as to what constitutes a ‘complaint’. They found that out of 326 cases where people had made a ‘formal contact’ regarding a grievance about health services, only around 20 had done anything that could be construed as

a 'formal complaint'. However, 41% of the 326 people said that they *had* complained. Similar ambiguities can be found in complaints about education. Moore (1994) found that people were as likely to describe their 'complaint' as 'raising a concern' and that there was no difference in the substance or seriousness of the issue. Many people were unhappy about using the word 'complaint'.

As well as ambiguity in the minds of complainants about what constitutes a 'complaint', local authority complaints officers also define complaints in a variety of ways. In a recent survey of Scottish local authorities, one local authority complaints officer sums up the variety of things that a complaint can encompass:

A complaint can be a means of: seeking clarification; gaining a second or new opinion; making comment; making recommendations; giving further information; seeking a review; expressing concern; querying a decision; questioning a policy; or halting an action. A complaint can be seen as: objecting, rejecting, making an appeal, asking for correction, moaning, accusing, finding fault, or asking for acknowledgement of a different view. Finally a complaint can be a means of expressing anger; or expressing grief.
(Local authority survey response, quoted in Charlton 2001, p15)

This complaints officer is using a broad definition of 'complaint' which includes several things which other complaints officers would dismiss as not being 'complaints' and it is unlikely, even in this authority that all of these actions would be recorded as complaints. Whether or not such expressions of dissatisfaction are interpreted as 'complaints' depends very much on the particular local authority's system for recording and on the individual member of staff who receives the complaint.

Many of the various attempts to resolve problems, discussed above, would not be considered to be 'informal complaints'. They would only be considered to be so if the word 'complaint' was used somewhere in the process. If the person had said that they 'wished to make a complaint' or had filled in a 'complaints form' this would be likely to be treated as a complaint. However, some people may not even know that there is a complaints procedure and so may not use this word. Rummery makes the point in relation to assessments for community care services that there is no 'clear right of appeal' (2002, p147) and that information about complaints procedures is often given to people only once they have been assessed as needing community care services. In other words, if people do not get through this initial barrier they may not even know that the complaints procedure exists.

Informal complaints

My research attempted to explore the idea of 'informal' complaints further. Despite the rhetoric of the importance of the informal stage, complaints officers in this study were reluctant to make a clear distinction between 'informal' and 'formal' complaints. When I was negotiating with local authorities over access, at which point I was hoping to interview complainants who had made 'informal complaints', several complaints officers were doubtful of the usefulness of this term. One local authority insisted that the only useful way of distinguishing different types of complaints was to describe them as those which had used the 'statutory procedure' (in other words, were bound by the timescales and procedures

described in the Scottish guidance) and those that had been dealt with outside the statutory procedure (which would not be bound by this guidance). Others described the distinction as ‘unhelpful’, saying that in practice all complaints that reached their office were considered to be ‘formal’. As a result of these difficulties, I was only able to access interviewees whose complaints had reached the formal stage of the procedure. However I was able to discuss some of these distinctions with these complainants, with the local authority staff dealing with complaints, advocates who had helped people make complaints and with focus groups.

I raised the issue of the distinction between ‘informal’ and ‘formal’ complaints with the complaints officers and social work managers in the case study authorities. They all agreed that it was desirable that issues should be dealt with as informally as possible and that the formal complaints procedure should only be used if this attempt at informal resolution had not succeeded or if the complainant expressed a wish to make a formal complaint. However their descriptions of what they did in practice show that the same issue might well be treated differently, depending on who dealt with it initially.

One social work manager felt that everything should be recorded so that, if necessary, the formal complaints procedure could be activated easily:

We would try to deal with things informally if we can, although in actual fact I log them as if they were all formal because I think it just gives us a better notion of what we’ve done. There’s 3 or 4 drawers over there with complaints over the last couple of years. So I do try and log them.
(Social work manager 2, Duncairn)

This same manager recognised however that this would not ‘catch’ all the complaints that came in:

The only ones that wouldn’t be recorded would be the ones that never get to me, so if they complain to a first line manager for example, then to be honest the practice team leader or senior social worker will deal with that.
(Social work manager 2, Duncairn)

Another felt that it depended on how the complainant worded their problem:

It really is if somebody writes in and says ‘I want to make a complaint’ then we will deal with it in the formal process. If somebody phones us or writes in and says ‘I’m not happy with such and such’ we would still advise them that they have the right to a formal complaint but in the response you would hope to be able to alleviate the issue or respond to the issue. So it’s really if somebody identifies themselves that they want to make a complaint in that way and then we put it through the formal process.
(Social work manager 4, Duncairn)

At the other extreme, another manager felt that his role was to avoid calling things complaints at all costs:

Another thing is to try and encourage a culture which forestalls complaints, not by stopping people complaining but by trying to address issues with people in an informal way to try and take care of their concerns.

...

But if someone came and said ‘I want to complain about the service that my granny’s getting’, my expectation would be that the first thing my member of staff would do would be to say ‘come on in and talk to me about it’. I think that’s to everyone’s benefit. I wouldn’t expect them to say ‘oh you want to complain, there’s the complaints leaflet’.
(Social work manager 3, Duncairn)

These comments came from local authority staff in the same authority, operating under the same local guidelines.

The complaints officers recognised that there were difficulties in defining informal complaints. They also acknowledged that there could be problems when complaints came in via local councillors or when people made their

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complaint ‘to the top person’, bypassing the procedure. Councillors and heads of social services were not always consistent in the way that they dealt with these.

The complaints officers in both authorities confirmed that it was in everyone’s best interests to resolve problems ‘informally’ and recognised that staff on the ground would handle these differently. They also recognised that people’s procedural rights could be upheld through the statutory procedure only if complaints were recognised as ‘formal complaints’ and that this would require the formal procedure to be invoked:

The ideal for me would be that when a member of staff receives a complaint they actually deal with it but they make sure that the person knows that there is a complaints procedure that they can enter into and they can enter into that right away if they want to, or even if they don’t enter into it right away they can subsequently enter it, if things don’t work out or they’re not happy.

(Complaints officer, Kinraddie)

Lipsky’s work on ‘street level bureaucrats’ is helpful in explaining the different ways in which social work staff at the front line may deal with ‘informal complaints. Leabetter and Mulcahy summarise the barriers to complaining that can be created by ‘street level bureaucrats’, including that front line staff may not be aware of their own complaints procedures, that they may not be good at communicating with people who are upset or angry and that they may discourage people from registering a grievance as a ‘complaint’ (1996, pp25-29). Lipsky argues that senior managers would be more likely to follow organisational policies more consistently (Lipsky 1980, p18). The evidence from this research is that even senior managers vary in their interpretation of the complaints procedure.

It is perhaps unsurprising that there is this level of uncertainty in defining complaints. Even in areas where appeal or review procedures are more formal, for example in social security, there can be considerable ambiguity about the different stages. Research evidence suggests that people do not always understand the legal procedure that they are following and act out of a sense that something is not right. This has been found in research on the motivations of social security review and tribunal applicants (Berthoud and Bryson 1997, Dalley and Berthoud 1992, Kempson *et al* 2004, Sainsbury and Eardley 1991, Sainsbury *et al* 1995, Sainsbury 1992, Wikeley *et al* 2001, Young *et al* 1999), amongst applicants for housing under homeless persons legislation (Cowan and Halliday 2003) and in the field of legal action in general (Genn 1999, Genn and Paterson 2001). Those on the receiving end of these more formal grievances are also not always in agreement about what constitutes a 'review'. For example, Sainsbury and Eardley (1991) note that, in requesting reviews of housing benefit decisions, less than a third of people used the word 'review' or 'appeal' in their letters. They argue that, even in this relatively legalistic area, there was considerable variation between local authorities as to what constituted a request for a 'review' and that this potentially created a barrier to 'higher' levels of the procedure.¹⁵ Similar evidence has been found in the procedure for reviewing decisions in applications to the social fund. Dalley and Berthoud (1992) describe a 'preliminary filter' whereby a request for a review can be prevented from going further by the way it is dealt with in the local office (p52).

¹⁵ This procedure for housing benefit has now been superseded by a system with access to an independent tribunal.

The evidence from the current research suggests that the question of whether or not dissatisfaction is expressed as a 'formal complaint' depends not only on the characteristics of the potential complainant and their relationship with the local authority, but also on how it is handled once it reaches a member of local authority staff. Nevertheless some people may be more likely than others to push a complaint as far as they can and to insist that it is dealt with as 'a formal complaint'.

Formal complaints

The individual interviews in this research were all with people who had made complaints which had been considered to be 'formal'. However, the ways in which complaints came to be designated in this way varied considerably. On some occasions complainants had made a deliberate decision to make a formal complaint; on others the complainants had made initial attempts to sort their problem out informally and had only 'made a complaint' when this had not been successful. Others were not clear about exactly what they had done but had contacted someone in the council:

I complained to somebody but I couldn't tell you who it was. Somebody came on the phone to me from the council and I just told them.
(Kenny Fraser)

Information about the complaints procedure

One striking finding from the interviews was that very few of the complainants had any knowledge or information about the complaints procedure at the point that they first complained. Most had complained because they had a sense that they 'knew what to do', either from past

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experience of dealing with local authorities or because they assumed that there ought to be some way of complaining.

No. It was just me doing it off my own bat. I never really got any information on who you went to or how you did it. I don't know if there is a complaints procedure.

(Ian Grant)

I knew that was the headquarters and I knew there would be a complaints procedure. [...] I was just assuming that's how it would work.

(Catherine Lawson)

One complainant had eventually found information about the complaints procedure on the internet but had found it quite difficult to follow:

I remember when I was looking for a complaints procedure we looked on the internet and it took us ages to find out exactly where to write to and who to write to.

(Janet Sinclair)

Although lack of knowledge about complaints procedures and how services are run may prevent some people from accessing the procedure, some do find their way into it. Some complainants had been advised to complain by a member of social work staff, a voluntary organisation or a local councillor, while others had picked up a complaints form in their local office. One complainant had received help from her social worker but was worried that this should not really have happened and was concerned about how I would describe this in my report in case the member of staff got into trouble:

I have to be honest that the social worker was as supportive of me as she could be which probably wouldn't have left her in a very good light ...Is that part of the role of somebody if you're dissatisfied? Is that part of your support worker or your social worker's job? Or is it your job to find out how to deal with it yourself?

(Angela MacDonald)

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On the other hand some complainants had met outright resistance from frontline staff when they had enquired about complaining:

The supervisor asked ‘how did you get in touch with the complaints officer?’ and I said it was none of their business. She was wrong to suggest it was wrong of me to complain.
(Mary Nicholson)

She wouldn’t let me know the name so that was why I went to the headquarters. She wouldn’t let me know the name [of the manager] to make a complaint.
(Catherine Lawson)

This lack of information about the procedure and the resistance displayed by some staff to providing information about the complaints procedure compounds the problem of defining attempts to resolve problems as ‘complaints’.

Deliberate decision to make a formal complaint

Some complainants were clear that they had set out at the start to make a formal complaint. The working definition of ‘formal’ that I am using here is that they had made a complaint in writing, had contacted the complaints department directly, had contacted a senior member of staff or had complained via councillor. I asked complainants whether they had considered taking the issue up informally by speaking to the local office (or day centre or residential home where the problem had arisen) first and, if not, why they had taken the more formal action. The reasons people gave were that, in some cases, they felt their problem had to be taken seriously. This could be because they didn’t believe the local office would deal with it, because they felt that the local office didn’t have the power to do anything

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about it or that they hoped that by complaining formally the social work department as a whole would learn from the complaint and take action to prevent such problems arising again.

The feeling that the local office would not take the problem seriously was, in some cases, based on the complainant's experience of having tried to raise problems in the past and a cynicism about how an informal approach would be dealt with. Helen Fisher, who had had dealings with the social work department over many years, exemplifies this belief. When I asked her why she had not taken up her problem with the day centre her relative attended, she said:

I believe in going higher. I do. I mean, if you write to a centre manager... I know that's the proper way to do it and you wait months and months for him to get back to you. Then you get a wee pat on the head and [he'll say] 'we'll see what we can do'. I don't believe in that.

The view that the local office would not take a complaint seriously appeared in some of the discussions in the focus groups, where people talked about their experiences of trying to complain in the past:

Harold Webster Well in my opinion, from past experience, you're wasting your time. Go direct [to the complaints office].

Cathy McLaren I agree with that.

Researcher Why would you agree with that?

Cathy McLaren Because unless you go right to the top, you never get anything.

(Focus group 2)

I would go as far as a senior person. If I went in to that senior person and asked them if they saw my complaint, they would say they didn't know what I was talking about. It gets lost somewhere between the sharp end and the people who make decisions.

(George McIntosh, Focus group 3)

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While this reflects a cynicism about the attitude of staff in local offices, some complainants said that they had taken their problem to a higher level because they recognised that there was a policy issue and the local office would not have the power to change things anyway:

If things are not going right I know that the centre can't do much about it because they're only doing what they've been told to do and I immediately just contact [more senior officer].

(Anne Gray)

If you're arguing about policy, the area managers have no authority to oppose the policy.

(Advocate C, Duncairn)

Another reason for complaining to a higher level of the council was that people felt that the social work department should learn from the problem and do something at a higher level to change things in the future. They were not confident that this would happen if the complaint was made only to the local office.

It's in an area office and if the information isn't passed on to a section who's going to be looking into it, a section at the head office who's going over the complaints. If they are cagey about what they give to [the head office] a lot will fall through the net.

(Elizabeth Ross)

These examples illustrate a belief amongst some complainants that issues need to be dealt with at a higher level because they will be taken more seriously or because this will allow the department to learn from its mistakes. Another reason for not complaining to the local office was that the local office had caused the original problem and the complainant could not see the point in taking it up at that level. This was illustrated by Susan James who was quite taken aback when I asked her if she would have considered taking

the complaint up with staff in the local office. She said 'But that was the office that started it all!'.

Other complainants had a more positive experience of their local office and had taken their problem there first, but, rather than dealing with it directly, the local office had advised them to make a formal complaint. Irene Burns described how the local office had encouraged her to make a formal complaint:

[my relative's] key worker said to me 'put in a complaint because we're angry about this. If you put in a complaint, there are people in here who can't complain and don't have anyone to complain for them so you will do them a favour'. [...] The staff weren't happy but their hands were tied. I didn't mind doing the complaining.

In this case the staff in the local office positively encouraged Ms Burns to make a formal complaint concerning something that they were also unhappy about. The local staff claimed that they could not act directly but they were positively pleased to support Ms Burns in her complaint in order to have the matter attended to. In other cases, staff did not express a view about the problem but helped by filling in forms:

A worker helped me to fill in the form. There were forms in the hostel, in people's rooms, and in the day centre.
(Julie Queen)

Finally, some complainants had made a formal complaint because a local councillor or a voluntary organisation had encouraged them to do so. These complainants had gone to the councillor or voluntary organisation first for advice and so had also made a decision not to take the matter up informally with the local office:

So luckily my councillor was at his surgery that night so I told him what had happened. He said he would take it up with the council [...] but he also said

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that he thought I should report [the social worker] for the way she had treated me. [...] I thought it was quite amusing but he said a lot of people would be upset and he said 'she is a professional social worker, she's not supposed to treat people like that' and he got me a complaints form.

(Susan James)

I go to a wee meeting [...] it's to do with carers. So it was them that suggested it and they even phoned up for me.

(Sandra Hunter)

Attempts to resolve problems informally

These complainants had all deliberately made some kind of 'formal complaint'. With others the process had not been quite so clear. Some had made an attempt to sort out the problem at a local level and only made a 'complaint' when this had not been successful. Sometimes they believed that they had been 'complaining' right from the start but that it had taken several attempts before what they were doing was recognised as a complaint.

They [the local office] were not dealing with the complaint. They were rewriting what they knew for me or what the person had said. Even the manner of the person who answered the phone was terrible. So when I eventually got writing to the head top man, I just put everything in, the way they spoke on the phone.

(Margaret Anderson)

First of all I complained to the person who issued the bill and then I complained upwards to the management and of course I complained through [the] social worker... So I got in contact with [the complaints office]

(Jennifer King)

In the first letter to the area manager, we'd called it a letter of complaint. They didn't take it as a letter of complaint because they didn't tell the complaints department. So when my client wanted to take it a step further he had to do the whole thing again. I contacted the complaints department straight away but he had to go back to the area manager again. It couldn't be taken a step further if you like, it had to go back to the first step. I think that was quite important and also it meant that it hadn't been looked at as

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seriously as he meant it to because he had stated in his first letter that it was a letter of complaint so there shouldn't have been anything dubious about that. He wasn't just saying he was unhappy he was saying 'I would like to complain'.

(Advocate M, Duncairn)

So she had written a letter to complain to - she didn't know about this procedure - she had been given the name of the Director so she had written to him, which I've just been following up today. It didn't really get the proper response. She didn't get a response from them.

(Advocate N, Duncairn)

In these cases, the 'informal' approach had not worked and the idea that the procedure should move smoothly from an informal approach through to a formal complaint had not worked either. One of the advocates suggested that this was because local offices were sometimes reluctant to deal with issues as 'complaints':

More often than not, they deal with it as if it is not an official complaint, it's a letter expressing upset or something so therefore they don't have to notify headquarters.

(Advocate M, Duncairn)

Finally, there were one or two people who did not recognise that they had made a complaint at all. This is illustrated particularly clearly in an interview with a complainant who had taken up an issue regarding a financial dispute:

Fiona Clarke It was only when I got this letter saying 'complaint concerning charging'.

Researcher So when you wrote to complain, that was just you thinking 'I'm not happy with this'?

Fiona Clarke Yes. I just wrote in to say I wasn't paying.

Researcher So you weren't thinking to yourself 'I'm making a complaint'?

Fiona Clarke No.

These examples suggest that the point at which something becomes a 'complaint' is not always straightforward in the eyes of either the

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complainant or the local authority. There certainly did not appear to be any evidence of a smooth transition between informal and formal complaints amongst those I spoke to.

Of course the individuals interviewed had all made formal complaints, so it is perfectly possible that there are people who make ‘informal complaints’ and who are quite satisfied with the result. The problem is that, because of the elusive nature of ‘informal’ complaints, it is very difficult to find evidence of this.

Another way of approaching this issue was to ask the people I interviewed if they had ever raised matters informally in the past. Some of the interviewees had, mainly those who were long term service users or relatives of service users. They talked about times in the past when they had raised things informally or the types of situation which they would deal with informally.

Several people had been using social work services for many years and were quite happy to raise less serious issues with the local office:

I don't have any bother. I just lift the phone and ask them what's going on.
(Kenny Fraser)

I would just get in touch with my social worker and tell her and she would be able to sort it out because she's done that before.
(Evelyn Johnston)

Helen Fisher however said that it depended which aspect of the service she was complaining about. She felt quite happy about complaining regarding some aspects of her relative's services but not others. In the case that she described to me she said that she would be happy to complain directly to the

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residential unit that her relative lived in but not the day centre because she felt that the day centre staff did not listen to her:

The manager down at [residential unit] - if I'm not happy about something, I'll say 'I'm not happy about that'. That's fine. I wouldn't go by them [the staff there]. I wouldn't do that. If it was something that that lot in the centre would listen to I wouldn't go by them either but they don't [listen to me].

People in the focus groups tended to support the view that complaints should be taken up at the lowest level first. It is important to note that most of these people said that they had never had to complain but talked about what they would do if they had a problem:

I don't know about other people but I don't like complaining ... I would rather, if a home carer did something that I didn't like, I would rather say to her, 'I don't like what you're doing'. I wouldn't complain to a higher head about her.

(Jeannie Dixon, focus group 1)

I think you could discuss it with person and say 'I'm sorry if you can't alter that, I don't want to complain but I will have to'. Would that not be sensible?

(Marie Paterson, focus group 1)

In focus group two there was disagreement between two members about the best way to deal with complaints about home care:

Davey McIntyre I would go to the manageress. That would be the only place I would go to.

Harold Webster I don't want to disillusion you, but you won't get any joy from them.

Researcher Why is that, do you think?

Harold Webster I've been through all these people. It all sounds sweet but nothing is done.

(Focus group 2)

Although all the interviewees had made formal complaints and some had deliberately contacted more senior members of staff out of principle, there

were still many who felt that this should not be necessary and that complaints should be 'sorted out' at a local level:

I just feel that it shouldn't have to go to all the hassle of getting in touch with head ones. It should be solved there and then instead of all this hassle.
(Maureen Taylor)

Conclusions on informal and formal complaints

Although there is much rhetoric about dealing with complaints informally, because of their very nature it is difficult to find out what actually happens with informal complaints. It is not always clear to the complainants or the organisation complained about what the difference is between an informal complaint, a formal complaint or an attempt to sort something out.

There are several reasons why these distinctions may matter. The first is that there may be different interpretations of what has happened - There may be a difference between what the 'complainant' thinks they have done and how the authority on the receiving end interprets the action.

A second reason is that failure to recognise an 'informal complaint' or an 'attempt to sort things out' as a complaint may prevent access to the upper levels of the complaints procedure. If the person with the problem is unsure about where they are in this procedure, it may not be clear what they should do (or have a statutory right to do) next. It is also fairly well established in the research literature that people can suffer from 'appellant fatigue' (Cowan and Halliday 2003, p138) and, it is argued, the addition of yet another layer of procedure can deter people from taking problems further.

Thirdly, if the attempt to sort the problem out is not recorded, the local authority will not be able to learn from patterns of problems that may be emerging.

Finally, if the complaint is not recognised as a ‘complaint’, the person on the receiving end does not have to be accountable to anyone for the way in which she or he has dealt with the issue (Braye and Preston-Shoot 1999). If the staff member approached does not treat the ‘sorting it out’ approach as a complaint she or he may not follow good practice in dealing with complaints.

Although recent policy guidance in England attempts to address this issue by giving more formal status to ‘informal’ or ‘local’ complaints, it does not address the problem of how attempts to sort a problem out can fit in to the procedure. Evidence from my research suggests two main issues that need to be addressed by the complaints procedure: the desire by some people to make a ‘formal’ complaint; and the need to record other attempts to resolve problems, even if they are not ‘formal’ complaints.

Some people want to make formal complaints at levels more senior than the local office and they should be permitted to do this. Their attempts to complain formally should be properly recorded and dealt with through the complaints procedure so that complainants can see that their problem is being dealt with and that they have a clear route forwards if they are unhappy with the outcome of their initial complaint.

While other people do not necessarily want to ‘complain’, they do want to get their problem dealt with. There should be clear mechanisms for ensuring that all attempts to get things sorted out are recorded so that barriers are not put in the way of people who may want to pursue their problem further and so that social work departments can learn from problems, however small and informal they may seem.

The resistance to ‘bureaucracy’ that I picked up from social work staff suggests that it will be very difficult for this to happen.

What happened to formal complaints?

The discussion above looks at how people entered the complaints procedure and shows that there is a lot of uncertainty about what is and is not a ‘complaint’ and at what point it becomes ‘formal’. This causes problems for the next stage of the procedure but if we assume that it is clear, at least to the managers of the complaints procedure, that a ‘formal complaint’ has been made, then what happens next should follow a defined path. It is assumed that the complaint will be investigated and it will either be upheld or not. If it is upheld then redress will be offered and may be accepted. If it is not upheld, the complainant will have the right to accept the decision or take it further to a complaints review committee and, if still dissatisfied, to the Ombudsman. A possible departure from this would be for the complaint to be ‘partially upheld’, in which case the complainant would be able to take their case further in the same way as a ‘not upheld’ complaint. Whatever the

outcome is, the status of the complaint ought to be clear to both the complainant and those managing the complaints procedure.

Figure 6a shows this in diagrammatic form.

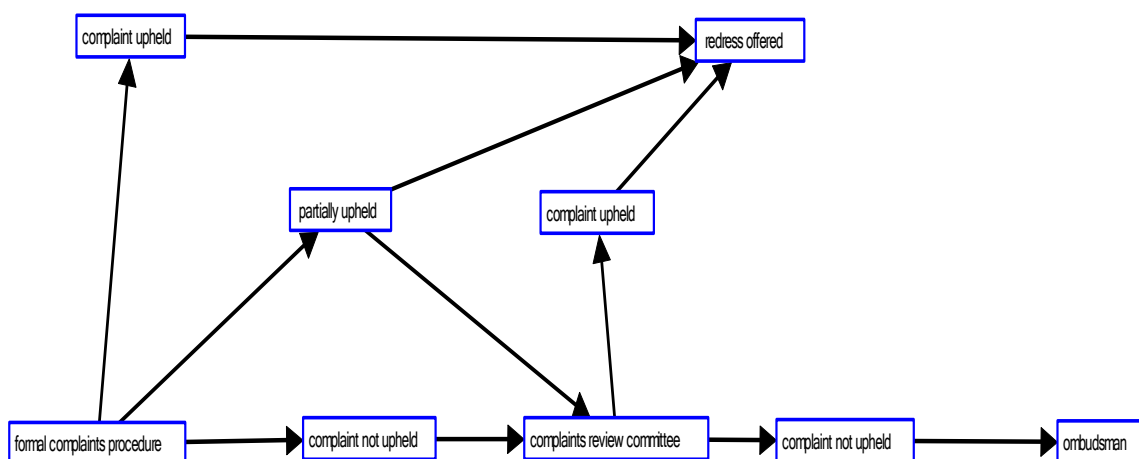


Figure 6a What should happen when people complain

However, not all complaints appear to follow this straightforward procedure. In this research it was often not clear whether or not the complaint had been upheld. Sometimes people had written several letters, made several phone calls or used multiple approaches, such as contacting councillors or local voluntary organisations. Sometimes this led to the problem being sorted out but it was not always clear that this was a direct result of the complaint or whether in fact the complaint had been upheld. Some had received a formal response and their problem had been resolved. Many did not know if they had ever had a formal response. In other cases nothing seemed to have happened concerning the complainant's problem

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and it was not clear what had happened to the complaint. A few complainants had followed the procedure through to the end. Others had given up.

The point at which the complainant got what they wanted from the procedure, or gave up trying, varied. Roughly a third of complainants had got what they wanted when they made the first complaint, leaving around twenty who ought to have been able to take it further along the path shown in figure 6a, - going to a complaints review committee. There were two other common responses to dissatisfaction at this stage: 'taking it higher' – that is contacting (usually in writing) someone higher up in the local authority, for example the director of social work, or someone in the management hierarchy or a political representative; or dropping out of the procedure altogether.

Table 6a shows the point at which people dropped out of the procedure according to what happened to their complaint.

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Table 6a Point at which people left the procedure, by complaint outcome

	Point at which complainant left the procedure				
	Initial complaint	Took it higher	CRC	Ombudsman	TOTAL
Outcome					
Upheld	8	6	0	1	15
Don't know but problem resolved anyway	5	2	0	0	7
Total fully upheld or resolved	13	8	0	1	22
Partially upheld	1	1	0	1	3
Don't know (problem not resolved)	4	2	0	0	6
Not upheld	2	1	2	0	5
Total not fully upheld	7	4	2	1	14
TOTAL	20	12	2	2	36

Table 6a shows that around two thirds (22) of the complainants got what they wanted when they made their initial complaint or after they pursued their complaint to higher levels. This leaves fourteen people whose complaints were not upheld or resolved and who, potentially, could have pursued their problem further (although the one complainant whose complaint was partially upheld by the Ombudsman could not have gone further). Chapter seven discusses in more detail what happened to the complainants who were dissatisfied with the outcome at each stage and their reasons for staying within the procedure or dropping out of it. The experiences of people whose complaints were upheld are discussed below.

Much of the literature on complaints and the discussion so far in this thesis focuses on people who are unhappy with the way that complaints

procedures operate. It is important to remember that some people *are* happy with the outcome of their complaint. In this study, individual complainants elected to take part in the research. It is possible that the people who chose to take part would be more likely to be those who were dissatisfied with the way their complaint had been dealt with. Table 6a shows that, for around two thirds of the people interviewed for this research, the complaints were upheld or their problems were resolved anyway. This might suggest that dissatisfaction was not their main motivation in taking part in the research. However it is probably true to say that many were still dissatisfied in some way: either because they were still unhappy about the original problem or because they were unhappy with the way their complaint was dealt with. It is not possible to say how typical they were of complainants in general.

Complaints that were upheld

Fifteen people had their complaint upheld at the first formal stage of the procedure or when they took their complaint 'higher', or in one case, after going the whole way to the Ombudsman. In some cases the result was clear: the complainants had received a clear letter of apology or description of the redress to be provided and they were happy with this. These included Claire Elliot who had been complaining about a problem with the unreliability of home care staff. She received a formal letter of apology and some reassurance that the problem would not recur:

I got a letter back from them and it said basically that I was right. They did apologise and that and said that the matter would be dealt with.

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Catherine Lawson had also received an apology about the way she had been treated by someone in a local office and was content that the complaint had been dealt with:

I think people are very bad at saying they're sorry. 'Things have gone wrong but we'll try and sort it out for you'. Which is what happened with us - the complaints procedure sorted it out.

She went on to say that, since making the complaint, she had been in touch with the local office again about another matter. She had been concerned that she would be treated badly again but was impressed by what she saw as the change in attitudes of the office staff:

Catherine Lawson I hope that somebody like me helps because I definitely saw a marked difference.

Researcher So you think that it was your complaint that made the difference?

Catherine Lawson I think it was. I truly believe it did.

Sometimes the apology is not felt to be sincere. The apology is made in terms of 'we are sorry you felt like this'. Lloyd-Bostock and Mulcahy (1994) describe these as 'pseudo apologies'. The complaints officer in Kinraddie recognised that it was sometimes tempting for social work staff to make this kind of apology. In order to try and avoid this happening he would help complainants to draft letters of complaint that short-circuited such a response.

Janet Sinclair described the apology she had received in this way:

I was hoping for an apology because my [relative] still has to visit that home [the residential care home where another relative lived]. [...] She still has to face this manager and the staff that she was brought down in front of. I got a vague apology but it wasn't an out and out apology.

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There is much rhetoric in discussions of complaints, that people want ‘simple apologies’. The office of the Scottish Public Services Ombudsman recently published a guidance note on apologies on its website (Scottish Public Services Ombudsman 2006b). This guidance note sets out six elements of an apology which are necessary for the apology to be ‘successful’. These include that the apology should be meaningful and that it should include a clear explanation for what went wrong and an indication of how the problem will be avoided in the future.

This guidance suggests that apologies are not ‘simple’ and that a considerable amount of work may be necessary on the part of the offending agency to make sure that these elements are met. The guidance also discusses which part of the agency is best placed to make the apology – there are advantages to this being the person causing the problem but also to it being organisation taking responsibility for the problem.

The complainants discussed above had sought and received apologies. Other complainants had been seeking the reversal of decisions or for services to be provided and were successful in achieving this. Kenny Fraser was an example of someone who had made a complaint, got the problem sorted and was content with the resolution. His problem had concerned the unreliability of home care staff, who were turning up at unpredictable times or not at all. After he complained, the problem had not recurred and he was happy that his complaint had been dealt with. Similarly some complainants were happy that their request for services had been met. Ian Preston’s request for direct

payments was finally allowed and Maureen Taylor received the equipment and adaptations which had been initially refused.

Other complaints, although upheld, were not so clearly resolved. Irene Burns was happy with the outcome of her complaint which was about damage to her relative's belongings in a residential care home. She had sent in a complaints form to the complaints department and received a fairly prompt response, which included an apology and a promise of financial compensation for the most recent damage. However, after some months' delay, she was then told by the care home manager that 'they' (presumably some other part of social work management) had changed their minds and that compensation would not be paid after all. Ms Burns was upset about this and the care home manager offered to take it up for her again and finally persuaded the department to pay the compensation. After some delay again, this was paid. In this case, the complainant was perfectly happy with the way the complaint had been dealt with but the outcome of the complaint was not followed through by other social work department staff.

Margaret Anderson had been attempting to get direct payments. She had complained about the failure to provide them and about the way in which she had been treated by staff. Although her complaint about the way she had been treated was 'upheld', the social work department did not offer her what she wanted, which was for direct payments to be put in place, but instead, offered her a re-assessment. By the time she was offered this however, she had had enough:

They wanted to go through the whole thing again, like get through this assessment again but I said 'I've got nothing to add to that'.

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[they] said to me ‘why didn’t you take the services?’ and I thought ‘Well because I have had nine months of stress from your staff and you want to send that kind of staff into my house. I don’t think so’. I said ‘That’s what I wanted months ago and I didn’t get it and now it’s too late.’

So although her complaint had been ‘upheld’, Margaret Anderson was utterly fed up with the whole business.

Elizabeth Ross had complained about a delay in getting equipment and adaptations. She had thought this had been caused by a problem with waiting lists. As a result of her complaint, it transpired that, in fact, her application had been turned down although she had never received notification of this. Recognising that she had not been well treated, the social work department offered to re-assess her and this second assessment found that she was entitled to the grant. She was content that the substantive element of her complaint had been resolved although she still had some dissatisfaction with the way that it had been dealt with. This discontent was mainly to do with the time it had taken.

Delays in dealing with complaints

Several complainants were unhappy with the time it had taken for their complaints to be dealt with. The complaints procedure guidelines (both the Scottish Executive guidance and the guidance produced by the local authorities) have clear timescales for dealing with formal complaints. A formal response from the local authority must be sent to the complainant within twenty-eight days of receipt of the complaint, although this period can be extended with the agreement of the complainant. However,

complaints had often taken months to be resolved. One of the explanations for this is that it was not always clear when the ‘formal complaint’ had been made, as discussed above. Complainants had often made several attempts to get their grievances recognised as ‘complaints’, which makes it difficult to establish when the ‘formal’ complaint was made and so when the twenty-eight day time limit began. Another difficulty with establishing how long the complaint took to be resolved was that people did not always remember exactly what had happened when. Some had kept files of correspondence and were able to point to exact dates but others were much less sure about what had happened when. From the point of view of the complainants, however, their sense that it ‘took forever’ is important in understanding their dissatisfaction.

Of the complainants who knew what the result of their complaint was, around half thought that it had been dealt with within a month or so of the formal complaint being registered (although it might have taken several months to reach this stage). The other half thought that it had taken between four and eighteen months to be resolved. There were no apparent differences between the two authorities.

Delays in dealing with complaints are clearly problems in themselves because people are unhappy that their problem is not being dealt with promptly. For some people the delay in dealing with the complaint caused further problems: some people mentioned the stress and time involved, that they had needed to take time off work to deal with it, or in one case, that they had been off work because of stress. If the complaint was about trying to get

services, the delay in dealing with the complaint meant that the services continued to be unavailable. Mary Nicholson had been trying to get services for a short term problem when her husband was discharged from hospital. The complaint was not dealt with until the need for services had passed.

Complaints that were partially upheld

In some cases people received apologies or some kind of resolution to their complaint but they did not get what they had been originally looking for.

Ian Grant had received letters acknowledging his complaint about the way a relative had been treated and the position at the time of the interview was that the social work department had offered a meeting with his relative. He did not feel that the complaint had been resolved:

I never got any sensible letters back - just acknowledgements that they received my letters. But the outcome is that there is going to be a meeting with [my relative], who'll just do as she's told, and then, which is a waste of time and energy because it won't change anything.

Anne Gray had complained about a problem with services for her relative. The local authority agreed that there was a problem with the services provided to her relative but did not accept responsibility for it:

Well I did get a letter to the effect that it was beyond their control. I did get visits here from the manager, two very nice people, but they said that they couldn't do anything about it because it was out of their hands.

So, although her complaint had been upheld, to the extent that the authority agreed that there was a problem, as far as she was concerned, the original problem remained.

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Alan Wood's complaint had also been upheld, to the extent that the social work department apologised for the delays in dealing with his relative's request for equipment and adaptations, but he had still not had a response to the request for equipment:

Researcher So when you got these apologies from the complaints department, were you still looking for more at the point?

Alan Wood Well I was still waiting for an answer to my [relative]'s request but that still [hasn't happened].

Receiving an apology is not always enough, especially if the complainant's main concern is getting a service. The social work department may feel that it has dealt with the complaint and provided appropriate redress but the complainant may still be unhappy. This difference in viewpoint is a reflection of different ideas about 'what the complaint was about': the social work department may see it in terms of procedures not working properly or inappropriate behaviour by staff but the complainant may see it in terms of not getting a service. These differences in perspective are discussed in more detail in chapter five.

Complainants whose problem was resolved anyway

Another group of complainants included those who did not think they had ever had a formal response to their complaint but whose problem had been resolved anyway. This group included Sandra Hunter, who had complained about the lack of support services available to her relative when she left school. Ms Hunter didn't think that she had ever received a formal response to her complaint but her relative was now getting some services from the social work department. She assumed that the complaint had made a difference:

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Researcher You don't know whether they ever wrote back to you?

Sandra Hunter I never received anything.

Researcher You don't think you did? So do you think it made any difference then?

Sandra Hunter I think so in a way because now I'm getting that wee bit of help.

Researcher But you don't quite know how that happened or whether that was because you complained?

Sandra Hunter I don't even know which department it came from

Joseph Kelly's complaint had concerned a request for direct payments. Since making the complaint, the direct payments had come through but he was not convinced that this was because of the complaint. It had taken about ten months from the time of the complaint until the direct payments were set up. He didn't think he had had a formal response to the complaint itself.

Evelyn Johnston's complaint concerned her unhappiness with the services that her social worker was providing to her. She didn't think she had ever received a formal response to her complaint either but, since putting the complaint in, her social worker had left and she now had a new one. Again, she didn't think it had anything to do with her complaint as she believed that the original social worker had just moved away.

Of course it is possible that the social work departments would believe that they *had* provided responses to this group of complainants but, either the response had been made informally or a formal letter had been sent but the complainant did not remember seeing it. This is possible in the case of Joseph Kelly, who did remember a manager coming to visit him to discuss his problem but did not remember getting a formal response. Another example where this may have happened was that of Julie Queen, who had made a

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complaint about another resident in the social work accommodation where she lived. She had felt that the staff should be doing more to protect residents from the behaviour of this person. She remembered that there had been a meeting to discuss the issue and the resident who had been causing the problem had since left but Ms Queen did not remember getting a response to her complaint as such. It is quite possible that the social work department would have regarded the meeting as its response. In both of these cases the complainant had not needed to pursue the complaint further because the problem had been resolved.

Angela Macdonald's problem regarding services for her relative was resolved before her complaint had been fully investigated. This was because she had made a three-pronged approach, involving her local councillor and a local support organisation as well:

I didn't wait for the complaints procedure to go through. I wrote to the councillor and I wrote for support and advice to the [organisation] and by the time both these had got involved and made enquiries of the council, some money turned up. So I didn't have to pursue the complaints procedure to the end, so I don't know what would have happened.

Ms Macdonald's case illustrates how complainants may use more than one strategy to resolve their problem, with the 'formal complaint' forming only part of this strategy. It also illustrates how this can create complications for the procedural justice built into the complaints procedure. Fortunately, Angela Macdonald's problem had been resolved but if it had not been, it might not have been clear where she was in terms of the procedure.

Not knowing what had happened

The discussion above looks at complainants whose problem had been resolved, one way or another. There was also a group of complainants who were not sure whether they had ever had a formal response to their complaint and were still unhappy about it in some way. Robert Donaldson described the response he received to his complaint, about a series of appointments which social work staff had not kept, much to the inconvenience of the complainant and his wife:

Well I went through their procedure which was a complaints form. It was probably investigated in-house so I was sent a letter saying it was being dealt with and that's it. I think they just got a slap on the wrist and that was it.

Janet Usher felt that she had not had any response to her complaint about staff attitudes:

So [the complaints department] said [they] would follow it through for me. So I said 'that's fine'. But in hindsight now I feel that I should have got an apology from the actual man who was in charge. [...] Three weeks later I received a letter saying that it was being investigated. What the outcome was, I still don't know, whether it was followed up or not.

It is possible in this case that the complaints officer believed that the complaint had been responded to.

Mary Nicholson was also not clear about what the outcome of her complaint had been. She had been trying to get services for a short period after her husband was discharged from hospital. As discussed above, the delay in dealing with her complaint meant that the need for services had passed before anyone contacted her. At that point the complaints officer told her that she ought to have been getting services of some kind but it was too late, as

far as she was concerned. She didn't get any formal response as such to her complaint. Again, from the complaints officer's point of view, it may be that this complaint looked as if it had been dealt with.

These examples show how some complainants believe that they have not had an adequate response to their complaints. To be fair to the complaints officers, it is possible that they would think that the responses described, for example, a statement that a problem would be investigated, an offer of re-assessment for services, or a meeting with service users, was a response to the complaint. It is also possible that formal letters of response were sent to these complainants and that, for some reason, the complainants did not realise that these were formal responses, or forgot that they had received them. However, this sense that they didn't know what happened may contribute to complainants feeling that there was no point in complaining or to their lack of confidence in taking the complaint further. It is also possible that a formal response would only have made them more annoyed, if it did not say what they hoped it would say.

Conclusion

This chapter has looked at how complaints came to be defined as 'formal' and why many complaints do not and at what happens when a complaint is recognised as a 'formal complaint'. Although the procedures in both authorities, based on the Scottish Executive Guidance, are quite prescriptive about what should happen at this point, complaints do not always follow the 'ideal' procedure, shown in figure 6a. Reasons for this are related to the way

that the authority reacts to the complaint, the effectiveness of the information provided to the complainant and the reaction of the complainant to this information. Complaints are not always clearly ‘upheld’ or ‘not upheld’, and even if they are, the status of the complaint is not always apparent to the complainants.

Figure 6b shows some of the other ways in which complaints can be handled.

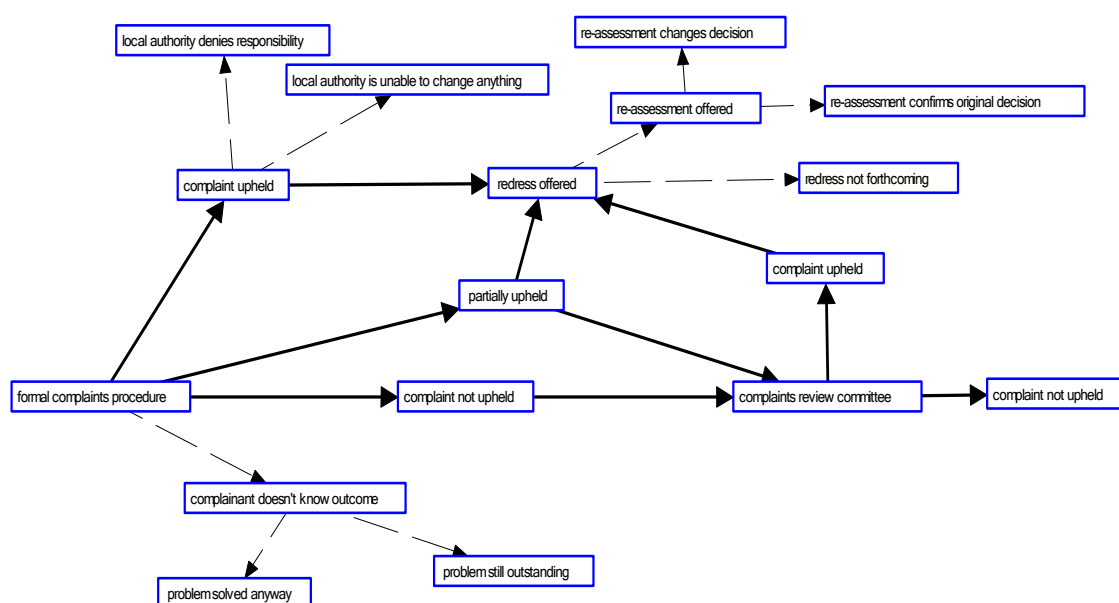


Figure 6b What can happen when people complain

This figure shows that complaints can leave the formal procedure in ways that make it difficult for the complainant to know what to do next. If the complainant is unsure what happened to their complaint, or if the local authority upheld the complaint but did not offer the redress that the complainant hoped for, it is not always clear what should happen next. Of

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course this does not stop some complainants from taking further action anyway. Some of the actions that can be taken are discussed in chapter seven. Similarly, even those whose complaints remain securely within the procedure do not always follow the next step along the line. The reasons for this are also discussed in chapter seven.

This chapter has also reminded us that many complaints are upheld and that some complainants are happy with the way in which the complaint was dealt with and the redress offered. Others are not so happy. The reasons for this continuing dissatisfaction may relate to ongoing distress about the original problem, which has not diminished as a result of the complaint, or the way in which the complaint was dealt with and the time it took, or that the redress offered was not what the complainant wanted. The issue of redress not being appropriate or adequate relates to what the complainant wanted from using the procedure in the first place. The purpose of the complaints procedure and what complainants want from it is discussed further in chapter nine.

Chapter seven

Taking it further

If complainants are dissatisfied with the response they receive from the local authority, they have the right to pursue it further to a complaints review committee. If a complainant is still dissatisfied with what has happened at this stage, she or he can make a complaint to the Scottish Public Services Ombudsman (if maladministration has been alleged) or raise an action for judicial review (if there are grounds for this). Both of these actions require that the social work complaints procedure has been used first (Mays *et al* 1999, pp43 and 46, Mandelstam 2005). This chapter looks at complainants' experiences of these higher level reviews and at why people might choose not to use them.

The complaints review committee

The right to take a complaint to the complaints review committee is laid down in the 1996 Scottish Office Guidance on social work complaints procedures and the associated Directions (Scottish Office 1996). The statutory complaints procedure assumes that when a complaint is received it will follow a straightforward procedure – it will be investigated and it will either be upheld or not. If it is upheld then redress will be offered and accepted. If it is not upheld, the complainant will have the right to accept the decision or take it further to a complaints review committee. Chapter six shows, however, that these early stages of the procedure are not always followed.

The Directions state that a final stage of the complaints procedure should involve a complaints review committee made up of three people, including at least one 'independent' person (Direction 13), and that complaints should be dealt with within specified timescales (Direction 10). Further than this the Directions say little about how the procedure should operate in practice. The Guidance stipulates that the CRC should 'only be used when all other avenues have been explored' (Scottish Office 1996, Annex A, para 2). Recent guidance from the Scottish Executive (Scottish Complaints Officers Network, personal communication) has led to Scottish committees consisting entirely of independent members, although the administration of the committees is still carried out by the local authorities.

The complaints review committee is the final stage of the procedure. However it has no powers to enforce decisions; it can only make 'recommendations' to the local authority as to how the problem should be resolved. Complaints review committee hearings are, however, very rare. My recent research based on local authorities' annual reports shows that there are very few complaints review committee hearings, (thirty-eight hearings were reported over the course of a year in annual reports from twenty local authorities, with many authorities reporting that they had held no committee hearings during the period). The mean percentage of complaints review committee hearings as a proportion of recorded complaints was 1.72% (Gulland 2003).

Both the case study authorities describe the format of their complaints review committees in guidance to staff. Both have committees with entirely

independent members. The organisation and administration of the committees is carried out by an administrative department of the local authority, not by social work. Duncairn had held four committee hearings (relating to all social work complaints, including those about children) and Kinraddie had held six committee hearings (all about community care) in the most recent year for which figures were available.¹⁶ Although it is very unusual for a complaint about community care services to reach a complaints review committee, the evidence from this research gives some indication about how they operate.

Of the thirty-two individual complainants interviewed for this research, three had attended a complaints review committee. In addition, one had requested a hearing but it had not been held because his complaint was resolved before it reached it. These complainants were all in Kinraddie. None of the individuals interviewed in Duncairn had been to a hearing. Advocates in Duncairn, however, talked about their experiences of assisting clients with complaints to the complaints review committee. In both authorities there were complainants who, although dissatisfied with the response to their complaint, had not pursued it as far as a complaints review committee. Their reasons for not doing so are discussed below. Local authority staff in both authorities gave their views on complaints review committees and, in Kinraddie, I also interviewed the person responsible for organising the committees. The discussion below is based on data from these interviews.

¹⁶ Source: local authority statistics

Access to the complaints review committee

In both local authorities, complainants access the complaints review committee by making a formal request within twenty-eight days of receiving a formal response to their complaint (source: local authority procedures, based on Scottish Office guidance).

Complaints officers felt that the procedure was straightforward and that whenever a complaint was formally dealt with, the complainant should be informed of their rights to take it to the next stage, although they were aware that some would slip through the net:

We try and catch letters that haven't informed people of their rights. The situation should be that the final formal response from us should advise them of their rights to go to a complaints review committee. We specify that they must do that, in writing, within 28 days, to the address which is now the [council] office.

(Complaints officer, Duncairn)

So when I send [...] a letter to the complainer which says 'you may expect to receive a formal response within 28 days. Once you've received that response, if you are not happy'... 'if you have any cause for dissatisfaction please come back to me and I will advise about the next stage'. Sometimes I will have advised people already that there is a review committee. Most people, I will have mentioned the review committee to. Sometimes I will have explained in quite a lot of detail because I already know that it's going there. But always people are told that when they have had a response, if they're still not happy then they should come back to me.

(Complaints officer, Kinraddie)

One problem with this is that it assumes that complainants have received a formal response to their complaint in the first place, and recognise it as such. My research suggests that this is not always the case (see chapter six).

Of those who took their complaint as far as the complaints review committee, two had found accessing it straight forward. Complainant K11¹⁷ had been sent information about how to apply to the committee by the office that was causing the problem:

So basically I wrote a letter of complaint, in line with the guidelines, to the council. So there was a hearing proposed, which I attended.
(Complainant 11, Kinraddie)

Others had found more difficulty accessing the review committee, including complainant K1, who reached it eventually:

We managed in the end to get to a review committee against the manager's wishes. [...] He was writing to the complaints officer opposing us having a review committee on the grounds that it was outside the time limit. Outside the time limit was caused by the manager, by delaying and delaying. That went on for eighteen months.
(Complainant 1, Kinraddie)

Complainant K7 had attempted to take his case to a complaints review committee but the case had been resolved before he got to it. He had found some difficulty persuading the council that he had this right, however:

So there was correspondence back and forwards until finally I wrote to them and said that their staff didn't seem to appreciate that there is a complaints procedure and the complaints procedure is not finalised until it is taken to a [complaints review committee] and I can elect to keep on going.
(Complainant 7, Kinraddie)

An advocate in Duncairn described how one of her clients had tried and failed to reach a complaints review committee. She had assisted her client in writing a letter requesting a complaints review committee, following the instructions in the council leaflet but the letter had been passed instead to the director of social work:

¹⁷ Complainants in this chapter are identified by code numbers rather than pseudonyms.

CHAPTER SEVEN – TAKING IT FURTHER

I think [...] that was maybe meant to be the person who would send it to that committee but it didn't seem to work and get there and it went to the Director of Social Work and he [my client] was thinking it was maybe the last thing we could do because it had gone to the top guy. So he was just thinking 'social work are never going to sort it out'.

(Advocate M, Duncairn)

The client had given up at this point because he felt that he could go no higher than the director of social work.

Others said that they did not know that they had the right to take their complaint this far:

Researcher Did they tell you anything about a complaints review committee? Because that's part of the complaints procedure. There's a stage at which you can go to an independent panel.

Complainant K16 No, maybe that's the next stage?

Researcher So it hasn't happened yet as far as you know?

Complainant K16 No.

(Complainant 16, Kinraddie)

Complainant 5, in Duncairn, had written several letters to 'higher' levels of the social work department but said that she had not been told about the complaints review committee until she finally wrote complaining to the Ombudsman. It was only then that the Ombudsman's office sent her a leaflet describing the procedure. By this time she had given up trying.

Advocate C in Duncairn had experience of assisting complainants in a number of local authorities and believed that the procedure was compromised because local authorities had control of access to the committees. This advocate had experience of occasions where the local authority had refused to allow a complaint to go to a complaints review committee:

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Justice isn't seen to be done if the Director says 'I'm not playing'. It doesn't seem to me that the Directions give him the power to do that anyway. It gives him the power to resolve complaints. It doesn't give him the power to say 'I don't think it's worth taking this to a complaints hearing. Because you can't win' or 'I don't think it's relevant'.

(Advocate C, Duncairn)

Although this advocate was describing a particular problem in a different local authority, the complaints officer in Duncairn did confirm that sometimes complaints would not reach the complaints review committee if the local authority thought they were not appropriate:

What happens is that someone requests a complaints review committee by writing to [department responsible for complaints review committees]. They make their own assessment as to whether or not that case can be heard before a complaints review committee. That decision is out of social work's hands.

(Complaints officer, Duncairn)

Likely reasons for refusing to hold a committee included that the complainant wanted something that the committee did not have the power to do:

The situation would be that either the person has stated as the purpose of their request, for example, someone is explicitly looking for somebody to be sacked and the complaints review committee will just be upfront and say that cannot be an outcome of this process.

(Complaints officer, Duncairn)

Another reason might be that the complainant had 'changed their complaint':

The other reason would be that there are matters raised, and bear in mind that sometimes they will change the focus of what they want to go to committee between our having responded and their application to the committee, sometimes what they say they want to raise at the committee is not the same as what they complained to us about and that's happened a few times.

(Complaints officer, Duncairn)

This approach assumes that complainants are clear about what they want by complaining and does not enable the complaints review committee to act in an inquisitorial fashion to get to the heart of the complaint or to suggest alternative solutions.

The complaints officer explained that a complaints review committee would not be held if the complaint should also be dealt with under a different legal procedure. This would usually relate to complaints about children's services rather than community care.

The complaints officer in Kinraddie, taking a more hands on approach, explained that his role was to advise the complainant of alternative mechanisms at an earlier stage. It seems that this would prevent the types of problem described by the complaints officer in Duncairn.

I see it in terms of: someone's come to me with a problem that requires a solution and we'll look for a solution and the solution may be for me to negotiate with someone on their behalf, or discuss something or find out some information for them or a hundred and one things for them or 'do you know that such and such a mechanism exists for you to make your views known about this' - some review or case conference or something like that - 'you don't need to actually pursue this as a formal complaint if you haven't done that already'.

(Complaints officer, Kinraddie)

In Kinraddie the officer responsible for organising complaints review committees explained that sometimes a hearing would not be held because an attempt would be made to resolve the matter beforehand:

Occasionally, one of the reasons I like to find out what the complaint is about at the beginning [is] because sometimes if I start the ball rolling too soon, social work will say 'wait a minute, I think we can resolve this.'

(Complaints review committee officer, Kinraddie)

Accessing the complaints review committee does not seem to be as straightforward as the guidance suggests. There is an initial problem with identifying whether or not a 'formal complaint' has been recognised as such. If it has, and the complainant has received a formal response, then s/he should receive information explaining about the complaints review committee. Evidence from other local authorities in Scotland suggests that there is a wide variety of informal procedures between the 'formal response' and accessing the complaints review committee, with some authorities holding an intermediate 'appeal' stage and others making every effort to negotiate with the complainant in order to avoid a committee hearing (Charlton 2001, p17). There seems to be a range of obstacles at this stage which can prevent the complainant getting to a committee.

What happens at the complaints review committee?

Despite some of the difficulties in accessing the complaints review committee, three of the people that I interviewed had attended a hearing. In addition one of the advocates had assisted several complainants at committee hearings. Although this is a very small number, all four felt that the complaints review committee, despite being independent of the council, was very reliant on legal advice from the council's legal adviser. They felt that this compromised the independence of the committee.

Complainant K1 was happy with the way the committee had conducted itself:

It was hard going especially when you're emotionally involved. The man said to us 'we've read the papers' and I said 'I want to say this'. I would say

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it was fair, we both got to put our points of view and they came up with that decision on what they had heard and what they had read and we were happy with that.

(Complainant 1, Kinraddie)

However, after the hearing the final decision of the committee was that the complaint was only partially upheld. The complainant believed that the legal adviser had intervened and had advised the committee that it could not fully uphold the complaint:

We reckon that when we went away the legal person pointed out to them ...and that the backtracking started then.

(Complainant 1, Kinraddie)

Complainants K8 and K11 also felt that the committee had been influenced by the legal adviser:

So there were two people from the [legal] section of the council sitting there, guiding them and the wording of decision was that they couldn't approve what I was saying. It was word for word what was in the review. It was virtually word for word the same. They just took the words out of there and said that they didn't approve it - they couldn't support me.

(Complainant 8, Kinraddie)

I think the mechanism is right but I'm not convinced that the directive given to the panel was unbiased. I certainly came away with that impression, because it wasn't just the meeting, it was the sort of asides I was hearing beforehand. When we were waiting to go in it was made very clear from just talking to the people from the council that the chances were negligible that I would be successful.

(Complainant 11, Kinraddie)

Advocate C, who had assisted several complainants at hearings, also had this view:

There needs to be a solicitor in the chair and he needs to be independent. He can't be an employee of the council because what we find is that they have a solicitor advising them and he's appointed by the council. They've got an advantage right away because he's defending the council's policy and advising them on what they can and can't do.

(Advocate C, Duncairn)

I raised this issue with complaints officers and with social work managers and the complaints review committee officer. They felt that it was justified for the council to have legal advice but acknowledged that there was a difference between complaints with a strong 'legal' issue and those which were more to do with communication and misunderstandings. The complaints officers felt that the legalised nature of some complaints meant that the issues were over the heads of the committee members and that a different system was needed:

The complaints review committees are arbitrary and they only have three people, who have never heard one before and may never hear one again. They might not be knowledgeable about social work. They will bring their own agenda to them. Although it's independent it's not necessarily consistent or fair, in the sense of having a full rounded hearing.
(Complaints officer, Duncairn)

The complaints officer in Kinraddie and one of the social work managers in Duncairn were of the opinion that 'legal' matters should be taken through the courts. They did not seem to realise that it is necessary to take such matters through the complaints review procedure first:

What they have to say is, if you want to challenge this you really can't do this through the complaints system at all, you'll have to do it through the courts and I do sometimes think that there are some things that shouldn't be in the complaints system, they should be in the courts where people can be sat down and asked questions on oath and where the clever lawyers aren't all on the same side.
(Complaints officer, Kinraddie)

I don't think they could come to any further conclusion because invariably when it gets to that stage, they're asking for something that there is no duty on us to provide so they're on to a matter of law. If they're arguing a legal point they should seek judicial review.
(Social work manager 1, Duncairn)

The Kinraddie complaints officer felt, however, that other types of complaints were better heard by the existing structure:

It's not the answer to everything but it is the answer to some things and if you take that away, what are you going to have in its place? You're not going to have anything.

(Complaints officer, Kinraddie)

The complaints review committee officer justified the role of the legal adviser in terms of upholding council policy:

Because it's usually only the financial assessment cases that a lawyer comes along, in which social work brings one of the department's lawyers along, in which case they present the council's case. So it doesn't make an awful lot of difference because with those kind of cases it's really down to whether the committee feels that social work have carried out things correctly.

(Complaints review committee officer, Kinraddie)

The role of the legal adviser in the complaints review committee hearing seems to be contentious. On the one hand, the local authority thinks that it is important to have someone with legal knowledge to advise the committee but on the other hand complainants see the legal adviser as biased towards the council.

What happens after the complaints review committee?

The findings of the complaints review committee are not binding. The case will be referred to a relevant council committee which will then decide what action, if any, should be taken. It is highly unusual for a complaints review committee's decision to be overturned and judicial review cases in England have confirmed that this should happen only if there are good reasons (Braye and Preston-Shoot 1999). The complaints review committee officer explained what would happen in Kinraddie. The relevant committee would usually

‘rubber stamp’ the decision and this would usually be based on very little information about the case:

The minutes are very, very vague, so that you can’t identify anyone, apart from the service and whether it’s been upheld or not.

This would mean that, to overturn the decision, the committee would have to look at the whole case again:

They would have to take it into private session, they would have to hear the details. To a certain extent they are rubber stamping it. They couldn’t refuse it without hearing all the details again.

(Complaints review committee officer, Kinraddie)

Only one of the cases in this research had been upheld (at least in part) by the complaints review committee. Although the committee had partially upheld the complaint, the complainant was unhappy with the result and, after further correspondence, it had then gone to a further meeting with social work staff. He was not happy with the way it was dealt with at this stage:

So there was another meeting held and then it went to the [committee] and we went up there and got absolutely nowhere... I can honestly say that that was the worst meeting that I have ever attended in my life

(Complainant 1, Kinraddie)

Complainant 8 was also unimpressed with what had happened after his hearing. His complaint had not been upheld and he wanted to pursue it further:

What did I think? [laughs] Not a lot I can assure you. When I got the note saying that they couldn’t support my case I asked for the minutes of the meeting. They said ‘oh we don’t do minutes’. ... So I did eventually get what they called minutes of the meeting. They gave me about six lines. We’d argued for about an hour to an hour and a half and they gave me six lines of what was supposed to be the minutes of that review hearing.

(Complainant 8, Kinraddie)

The complaints review committee officer confirmed that minutes would be very brief, in order to maintain the anonymity of the complainants. The complaints review committee officer did not consider that it would be necessary to have a fuller record. I asked whether it might be necessary if the complainant wanted to take the complaint further but the view was that this had not happened in recent years so it would not be necessary.

Given some of the apparent difficulties with the running of the complaints review committee, from the perspective of the complainant and the contrast that this provides with the views of the professionals, it is important to look at the purpose of the complaints review committee.

The role of the complaints review committee

The role of the complaints review committee reflects, at least in part, the purpose of the complaints procedure. Possible purposes for the complaints procedure are discussed further in chapter nine. Harlow and Rawlings show that the philosophy behind the Citizen's Charter (the philosophy which informed the development of health and community care complaints procedures) gives complaints mechanisms a 'dual function': the primary function being to provide information to managers, while the secondary function is to provide a means of redress for users of the system (Harlow and Rawlings 1997, p405).

The data in this research give some indication of the role of the complaints review committee in Kinraddie, while the very low number of hearings in Duncairn makes it more difficult to know how it operates there. Dean *et al.*

(1996) consider that the complaints review committee has a variety of roles. Complaints review committees may provide an opportunity for: case review, policy review, monitoring performance, or adjudicating on individual rights (p340). Dean *et al*'s research shows that different committees were, at that time (the early 1990s), interpreting their roles in different ways. Using these roles as a model, the evidence suggests that the committees in Kinraddie were not being used as a means of policy review or adjudicating on individual rights. The role of the legal adviser meant that the council was directing the committee to stay within council policy. The clear opinion of the complaints officer and officer responsible for organising committees was that committees should not be used for resolving 'legal' disputes. The complaints officer and some of the social work managers in Duncairn also felt that the complaints review committees were not appropriate for resolving legal disputes. The role of monitoring performance is difficult to see as very important when so few cases get this far. This leaves case review as the most likely role. Another possible role, falling within the consumerist model of complaints procedures, is one of providing customer satisfaction.

The overwhelming view of social work staff (complaints officers and social work managers) was that the complaints review committee was a 'last resort' to be used only if there was really no other alternative solution. One social work manager said that he had not had any experience of complaints review committees for community care issues. His explanation for this was that issues would only reach this stage if they were being 'driven by advocates':

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Particular advocates may drive the process forward and I'm not aware of any local advocacy projects taking things that far. It may be their view about what is realistic. It may be their approach to things.

(Social work manager 2, Duncairn)

Another manager felt that the purpose of the review committee was to show the client that the council was taking the complaint 'seriously':

It is clear that this is a serious business and we're taking it seriously.

(Social work manager 4, Duncairn)

This view was confirmed by another manager, who felt that the only point of complaints review committees was to give complainants an opportunity to air their grievance, because it would be very unlikely that the committee would change anything:

Anything that gets to the complaints review sub-committee, anything arbitrary will have been resolved at the first point of contact so invariably it gets to the complaints review sub committee it's because it's not resolvable and there's been a fundamental failure to agree, that will never be changed. I suspect if you look at the decisions they make they will very rarely have been overturned.

(Social Work Manager 1, Duncairn)

The view of the complaints review committee as 'last resort' was echoed by a social work manager who would see it as a failure to have to attend one:

I've never been to a complaints review committee. I'm happy to say.

(Social work manager 3, Duncairn)

Some complainants, familiar with the way things worked, were of same opinion. I asked complainant D16 if she had ever taken a complaint to a complaints review committee:

No. So far, whenever I have complained, something's been done to rectify it. I think they know by now that if they're going to disrupt my [relative]'s services, they know they are going to hear from me but I've always tried to keep it as low key as possible. There's no point in making people angry because you won't get anywhere with that and I try to be as polite as I can because I find that you get things done quicker.
(Complainant 16, Duncairn)

Some complainants, on the other hand, did seem to see the complaints review committee as an opportunity for an independent adjudication of their case:

Researcher Do you think it would have been helpful to go to an independent panel?

Complainant K16 If they had said, finally, 'we understand what you are saying ... but you owe this money', I would maybe hold up my hands and say 'OK then' even though morally, I don't think she should but I would probably say 'yes she will [pay]' but I feel they've just railroaded over me. They haven't listened to what I've said.
(Complainant 16, Kinraddie)

The legalistic language used by some complainants suggests that they saw the process in legal terms. This approach to complaints is also discussed in chapter nine. Complainant K1 described the experience as being like a court:

It was as if we were in court that day - people sitting at a table - we were defending our point of view, they were defending the social work department and they came up with a judgment. I've never heard of a court reversing its decision.
(Complainant 1, Kinraddie)

Complainant 11 talked in terms of the council putting forward a 'defence':

The people putting forward the defence, I met before the proceedings. It was them that told me that I didn't have any chance of success, before it even started [laughs]. That consisted of social services people, ... and their solicitors.
(Complainant 11, Kinraddie)

Advocates tended not to see complaints in this way, apart from advocate C who saw all complaints in legal terms:

The problems that we face are at the complaints committees themselves that basically the members aren't qualified to hear the complaint. So having gone through the whole process we get the decision that they are not competent to deal with it and we have to go to another place and the only other place we can take it is to the Court of Session. So effectively, the complaints committee isn't worth having.

(Advocate C, Duncairn)

In order for the complaints review committee to work effectively, its role must be clarified. It seems clear that, if it is intended to provide the final stage in a 'legalistic' procedure, it would need to show itself to be more independent of the council. This view is confirmed by Parsloe (1994), an experienced chairperson of complaints review panels in England, when she claims that panels are too 'dependent on information provided by the authority' to be seen to be independent. Williams and Ferris, on the other hand, do not believe that the role of local authority staff or councillors involved in committee hearings compromises their independence, arguing that it is important to have their 'local knowledge' and that complainants value this (2005, p205).

Similar procedures in the field of health came under considerable criticism for their perceived lack of independence (Department of Health 2003; Mulcahy 2003), leading recently to reform of the procedure so that a more obviously independent body replaces the semi-autonomous independent review panel in England and Wales. In Scotland the health complaints review panel has been abolished altogether and replaced by a direct route to the Ombudsman (Scottish Executive 2005a). The social services complaints

review committees in Wales have also been replaced by independent bodies, while a decision on the role of independent bodies in England has been delayed until the merger of the Commission for Social Care Inspection and Health Care Commission from 2009 (for details see Gulland 2006). While the Scottish Executive has not yet decided whether or how to reform the complaints review committee in Scotland, the evidence here suggests that perceived independence continues to be a problem.

Alternatives to going to the complaints review committee

Some of those who did not follow the procedure as far as the complaints review committee pursued their complaint in other ways within the council. There were two main choices: ‘taking it higher’, that is, contacting (usually in writing) someone higher up in the local authority, for example the director of social work, or someone in the management hierarchy; or contacting a political representative.

Both of these responses keep the complainant within the system in some way, although they don’t follow the clear path which the procedure implies. A third possibility is to drop out of the procedure altogether. These three options are discussed below.

Taking it higher

Having had some kind of unsatisfactory response from the social work department, several complainants pursued their grievance further by writing

again to someone higher up in the management hierarchy. This is illustrated by the following examples:

Complainant D5 All he did in his letter was repeat what had happened ‘I had phoned, [details of complaint], blah, blah, blah’. Just repeating things I knew.

Researcher Do you know who that was? Was it someone in the local office?

Complainant D5 Yes. I ended up sending about five letters.
(Complainant 5 Duncairn)

Eventually after mountains of correspondence with the director and the housing department and this bloke in the other area office, it took them eighteen months and it was [originally] going to be [done] within four or five weeks.

(Complainant 11, Duncairn)

So he was going to look into it and nothing happened. So something else happened and I wrote to them again, made another official complaint. I’ve written to them three times altogether.

(Complainant 14, Kinraddie)

As well as those who had used this method of pursuing their complaint, several complainants whose problem had been resolved said that they would have ‘taken it higher’ if it hadn’t been dealt with:

I don’t know to be truthful but I would have gone to somebody, I would have kept it going till I got somebody to deal with it.

(Complainant 12, Duncairn)

Researcher So if you had a problem again would you go to [complaints officer]?

Complainant K2 I’d just go to the head of the department.

Researcher But if that wasn’t sorted?

Complainant K2 You just push on and keep going. Once you get to know what goes on there’s no problem.

(Complainant 2, Kinraddie)

I don’t know what would happen if I went to that meeting. But one thing I do know. I wouldn’t stop there. I would go to the big house in [place] and go right to the top there.

(Complainant 14, Kinraddie)

Taking a complaint higher within the local authority worked for some complainants although they were often quite frustrated by the time they got the result they had been looking for. Others pursued this route for some months before eventually giving up. Those who talked about pursuing a complaint higher up the management ladder did not seem to be aware that they were part of a procedure with specific stages. Ewick and Silbey describe this process of 'going to the top' as 'leapfrogging', arguing that people use it as a means of subverting bureaucratic processes and dealing with the perceived incompetence of those further down in the chain (1998).

Contacting a political representative

Several complainants had contacted a councillor or other political representative in order to pursue their complaint further. Complainant K4 did not get any helpful reaction to her complaint until she contacted a political representative:

I first complained to the council but they wouldn't budge at all so I went to the Citizens Advice. ... It took six months and I never heard a word back. They [the council] kept just passing the buck between each other. I ended up going to see my local MP, MSP. She made one phone call and within a week [complaints officer] was out seeing me.
(Complainant 4, Kinraddie)

Complainant K10 had made a formal complaint and had also contacted a councillor but felt that it was the councillor that had really made a difference:

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Researcher Would that [complaining to the social worker] have been enough?

Complainant K10 No. I think the councillor coming on the scene was the final thing.

(Complainant 10, Kinraddie)

Another complainant had given up on the complaints procedure but was now considering approaching a political representative to pursue the problem:

My brother has taken the issues on board now. I've suggested to him to get the local councillor and MSP involved.

(Complainant 8, Duncairn)

Using political representatives had worked for many but not all complainants. Complaints officers, however, were frustrated when the complaints procedure was leapfrogged in this way as it would mean that, on the one hand, the relevant management information might not get fed back in the way the procedure allowed and, on the other, complainants might not be informed of their procedural rights to take it further if they were still unhappy.

Dropping out of the procedure

Chapter six shows that it was not always clear what had happened to people's complaints. Around a third of the people I interviewed remained dissatisfied in some way with what had happened about their complaint but had not taken their complaint any further in a formal way. At this point there was a range of things that people might have done next:

- Do nothing
- Re-apply for services
- Refuse to pay bills
- Go to the press

- ‘Exit’

The discussion below gives examples of people who followed (or threatened to follow) each of these other options.

Doing nothing

Research in related areas has considered why people do not use redress mechanisms or do not follow them through to the end, sometimes describing this as ‘lumping it’ (Genn 1999, Genn and Paterson 2001). Mulcahy argues that this is a perfectly normal reaction (Mulcahy 2003). There were some people in this study who made an initial complaint but gave up when they did not get the resolution they had hoped for.

Complainant 6 in Duncairn had complained about a failure to provide services and had now given up trying to get anything from social work in the meantime:

Researcher So are you still trying to negotiate that with them?

Complainant D6 We sort of gave up. I’m trying to get back on the road. See if there’s any other avenues we could try.

Complainant D4 had written several letters about the way a relative had been treated but did not think that she had got a final response and had eventually given up writing letters:

Researcher But as far as you know, you never heard any more?

Complainant D4 I honestly can’t remember. I think maybe I should have written another letter, a third letter, but I never got round to it. It seemed like so much hassle for such a petty incident.

(Complainant 4, Duncairn)

Much has been said in the literature about the characteristics of those who ‘lump it’ rather than pursue legal procedures (Genn 1999, p69), although

Mulcahy and Tritter (1998) make it clear that this is not necessarily a negative response: people may have quite clear and understandable reasons for not pursuing formal procedures.

Re-applying for services

Another option, other than continuing with the complaint, is to make a new application for services. Complainant K15, having failed to get anywhere with her complaint, had decided to go to a different local office to start the process of applying again for services:

I knew I couldn't beat the system. It is collusive when they do wrong. There's nothing you can do. If I'd been on my own I would have continued to fight and I would have gone to the Ombudsman and I would have highlighted the wrongs. But having [my relative] there, I'm suffering, I caved in and went into the main office, asked the procedures, what it would involve, would I stand a better chance and I got a listening ear.

(Complainant 15, Kinraddie)

This complainant did eventually get what she had been looking for, although she had given up on the complaints procedure. She had not been willing to follow the complaints procedure through to the end because she believed that it would be too time consuming and stressful.

Refusing to pay bills

Two people who had disputes about financial issues had stopped complaining but were now refusing to pay bills, in the hope that this would prompt the local authority to look at the dispute again or to cancel the invoices:

My next step? I'm just going to sit at this now. I just ignore the bills now because nothing happens.

(Complainant 4, Kinraddie)

Complainant K16 [discussing what she did next after receiving a response to her complaint] I could have written back - I decided then we'll just take it as far as it goes.

Researcher Which means the debt collectors?

Complainant K16 Yes. There were new bailiffs, debt recovery people, so I just wrote on it 'please refer this to [the] council and they will tell you the reason for non-payment'. So I just sent it back.

(Complainant 16, Kinraddie)

This type of response looks like an example of what Ewick and Silbey describe as 'resistance to' or 'subversion of the law' (1992, p209-211). They describe acts of resistance as involving an awareness of being less powerful, an awareness of an opportunity to turn the situation to their advantage and a sense of unfairness. Complainant K4 described her position in terms of reversing the power balance: 'I'm just going to sit the way I am. Because I've got the upper hand.'

In both of these cases, the complainants could have used the complaints procedure, via the complaints review committee, to pursue their disputes. Instead they chose to let the council 'come and get the money' which they (or their relatives) allegedly owed. Another complainant had decided to refuse to pay his council tax in the hope that this would put pressure on the council to provide the services which he felt he needed.

I wrote to them and said 'if you're not going to be any more reasonable, I'm going to stop paying my council tax', so I did. I stopped paying my council tax - as a protest and said that the money would be banked with the [bank] along here. I wasn't refusing to pay. I was just not handing over the money.

Although he was not having success with this approach, he was attempting to invert the power relationship in a similar way to those who were refusing to pay bills.

Going to the press

Another form of resistance is to invert the power relationship by threatening the local authority with publicity through the press. A few people had threatened to take their story to the press or said that it was the next thing that they might do. They believed that this would put pressure on the local authority to take some action:

[The] office phoned to ask how I was getting on and I said I wasn't getting anything. So I said if I didn't get anything I'd go to the *Sunday Post*. That got them worried! [...] Writing to the paper is a good way of complaining. I've been threatening it for years but I've never done it! [laughs]
(Complainant 12, Kinraddie)

So that's when I said 'I've had enough. I'm going to the papers'.
(Complainant 9, Kinraddie)

If they did anything else, my next step's the papers because I think the *Daily Record* would love this. I really do.
(Complainant 4, Kinraddie)

Although several people said that they had threatened the council with the press it seemed that none had actually followed this threat through.

'Exiting'

Another option for the complainant is to use their power of 'exit', in other words going to another service provider (Hirschman 1970). In the context of community care this would involve using private services, an option which is only available to those with the financial resources to do so. A couple of people had done this:

That is the last [letter] and I felt 'they're doing nothing, social work's doing nothing, to hell with them'. So I then got in touch with the [voluntary organisation] and I ended up going to [organisation] and they have all sorts

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of things like counselling and aromatherapy and reflexology and pain management and etc.
(Complainant 5, Duncairn)

Exit is not possible for many complainants, either because they do not have the financial resources to pay for private services or because the services are not available privately anyway. This point was confirmed by social work manager one who argued that ‘the market was not developed enough’ to give people any choice in many areas of community care. He went on to say that direct payments did not really offer people choice either because economies of scale meant that council provided services were often the only ones which were cheap enough for direct payments to cover.

Interviewees clearly had a range of alternatives to following the complaints procedure through to the complaints review committee. There were two main reasons for not following it: lack of information about the options, as discussed above, and lack of confidence that there would be any point in pursuing it further. Complainant K4 had no confidence that the next stage of the procedure would treat her complaint independently:

I could take it further [but] you can’t take on [name] council and their lawyers in their legal department. Nobody ever wins so what’s the point in going down that road?
(Complainant 4, Kinraddie)

Lack of confidence in the procedure is one reason for not pursuing it further. Another reason is lack of information or barriers to following the procedure, as discussed above.

Further again: complaining to the Ombudsman

There is no appeal from the complaints review committee. However, if a complainant believes that the actions (or inactions) of the local authority amount to ‘maladministration’ they have the right to make a complaint to the Scottish Public Services Ombudsman. Local authorities should tell people that they have this right in all their publications about services and complaints and in ‘any document ... responding to a complaint made to it by any person who might be entitled to make a complaint to the Ombudsman’ (Scottish Executive 2002, para 11b).

The Ombudsman can only look at a complaint once it has been through the whole local authority complaints procedure, unless the complaint is about the procedure itself or it is unreasonable to expect the complainant to do so (Scottish Public Services Ombudsman Act 2002 section 7(9)).

In practice the Ombudsman receives few complaints about community care services. The Scottish Public Services Ombudsman received 58 complaints about social work (which would also include children’s services) in 2004/5, amounting to around 6% of all complaints relating to local authorities (Scottish Public Services Ombudsman 2005, p29). This is a similar proportion to those received about social services by the Local Government Ombudsman in England and Wales in recent years (Seneviratne 2002, p230).

Three interviewees had complained to the Ombudsman, all in different circumstances and with different results.

Complainant D8, frustrated at the way the social work department was dealing with his complaint, had complained to the Ombudsman. The Ombudsman upheld the aspect of his complaint which related to the way the social work department was dealing with the case:

I know you have to exhaust every internal procedure before you go to the Ombudsman. If you went to the Ombudsman in the first order, they wouldn't entertain you. But the Ombudsman agreed that, after I wrote to them, that there was merit in my case and the fact that they said they'd accept my case indicated to me that there was merit in my case.

The complainant then went on to describe how the Ombudsman had backed out of his case once the procedure had got going again:

He wrote to me and after they started dealing with my enquiry, obviously that prompted the Ombudsman to say that now that they were dealing with it, the Ombudsman couldn't take it any further. Which I have to say was a bit disappointing. But I have to respect their decision.
(Complainant 8, Duncairn)

Complainant D5 had also made a complaint to the Ombudsman when she had got fed up with the way the social work department was dealing with her complaint. However, the response in her case was that she needed to pursue it further with the social work department first:

That should have come from the social work department, not from the Ombudsman and the complaint goes to a review sub-committee and all this is highlighted here, which means I was supposed to write again and I thought 'I've had enough of this'. Nobody is interested. They haven't a clue. I'm fed up with the whole damn thing, so I gave up.
(Complainant 5, Duncairn)

Complainant K1 was the only interviewee who had taken his case to the Ombudsman when he was unhappy with the decision of the complaints review committee:

So anyway, from there we wrote to the Ombudsman and we had an interview with him and although he said that he couldn't override what happened at the review committee, he would write a report on it and he recommended that she [staff member] should apologise.
(Complainant 1, Kinraddie)

He was content with what happened at that stage, although his unhappiness at the way the social work department had treated him remained:

Researcher Were you happy with the way the Ombudsman dealt with it?
Complainant K1 Yes, very happy. The man explained to us that he couldn't change anything but he dealt with it in a manner that I would expect a professional to do.
(Complainant 1, Kinraddie)

Of those who had not pursued their complaint this far, a couple of interviewees discussed whether the Ombudsman might be a route for people to take their complaints further but were concerned at whether it would be dealt with and the amount of work involved:

Well you know there is the Ombudsman but he only investigates like one in a thousand cases apparently. ...If they only deal with one in a thousand, it's not worth trying is it? I couldn't concentrate that much to do that.
(Complainant 6, Duncairn)

CHAPTER SEVEN – TAKING IT FURTHER

I know that there is the Ombudsman for various other things but how does the ordinary woman, or the ordinary mother or father within a working class area like this get contact with that? ...You have to go through all this and you know how demanding that can be and if that's someone who's got a disabled member in their family, they've got enough to cope with without having the added hassle - and it is a hassle - and thankfully, my brain is still working very well and that kind of hassle doesn't faze me. If I've to do it, I will do it but it's not everybody who can do it.

(Complainant 16, Duncairn)

Complainant K11 was aware that there might be other means of pursuing his complaint but, after his experience of the complaints review committee, he felt that there wasn't really any point in taking it any further:

No - clearly they wanted to call it a day - they said there was no appeal - bang. I am aware that there are other avenues that we could take but to be honest I didn't really see that it would get anywhere.

(Complainant 11, Kinraddie)

This research did not reveal a great deal about complainants' perceptions of the Ombudsman, because so few people were aware that complaining to the Ombudsman was an option, or they had dropped out of the procedure long before this could become an option for them. However, this underlines the importance of people knowing what rights they might have beyond the council's internal procedure. At the same time, those who were aware of the Ombudsman seemed to think of this as a somewhat distant procedure which would require time and energy to pursue. It would be interesting to see whether making the Ombudsman available at an earlier stage, as has happened with health complaints (see chapter two above) would raise the profile of the Ombudsman, make it easier for people to access the process or increase their confidence in its likelihood of resolving their problem.

Judicial review

Judicial review provides another avenue for a complainant who is dissatisfied with a decision of the complaints review committee, and if there are grounds for judicial review. In many cases judicial review would not be appropriate but it is possible that it would be in some. Judicial review has been used in the past to challenge actions by local authorities on the allocation of resources, waiting lists, financial assessments and the operation of the complaints procedure itself (Mandelstam 2005). Few of the individual complainants in this study showed any awareness of the possibility of court action. Complainant K11 did talk about the possibility of taking further legal action but did not see any point in pursuing his case further:

So I saw that without going to the House of Lords or whatever there was no opportunity to re-open the case.

Complainant K8 had consulted a lawyer about the possibility of taking further legal action, although he was finding it a very slow process and did not have much optimism that it would achieve anything:

She [the lawyer] wrote a letter to the council but she didn't get much of a reply back. Then she's now with [legal firm]. Well all that has caused delays and she's never really got into the case. I kept phoning and trying to push her on. Her last letter she's applying for more money to make me [name]'s legal guardian. She didn't want - if it goes to court - to have [name] on the stand. So to save her that, she was to get me to be her legal guardian. That's as far as she's got before she can submit something.

Writers on judicial review have noted that it is particularly difficult for people to use in the area of social welfare without access to expert legal advice (Harlow and Rawlings 1997, p539) and that the particular expertise needed for social welfare cases is often thin on the ground (Mullen *et al* 1996, 91). Given this, and the low level of knowledge about their rights in general,

it is not surprising that few complainants had considered judicial review as an option. There was some awareness of judicial review amongst advocates and social work staff. Advocate C talked about taking cases to the Court of Session but observed that getting legal aid was 'a nightmare'. Advocate T also showed some awareness of legal processes but was wary of getting involved. He discussed a case in the past when there had been a possibility of legal action and said:

We didn't want to go down those lines - you've got to do everything by the book. One step in the wrong direction and it could have been 'Don't go to that advocacy service, they don't know what they're talking about'.

In this case he had helped his client to find another way round the problem. Some social work staff talked about judicial review but, as discussed above, saw it as an alternative to the complaints procedure rather than a next step. Overall, judicial review does not feature much in the thinking of any of those involved in community care complaints. This is not surprising, in the light of research on social workers' attitudes to the law (Braye and Preston-Shoot 2006, Roche 2003) and research on the impact of judicial review in other areas (Halliday 2004).

Conclusion

Chapter six showed that many complainants are not aware that they are part of a procedure with set stages to be followed. This does not necessarily stop people from pursuing their complaint anyway, by continuing to push it up through the management hierarchy or by contacting political representatives. Following these routes sometimes produces results for complainants but it means that the complaint can take longer to be resolved and may mean that

the complainant is barred from following the formal route to the complaints review committee if they are still unhappy.

Some complainants, however, are deterred from taking their complaint further, either by lack of information or by lack of confidence that a higher stage will treat their complaint any more seriously.

Access to the complaints review committee does not seem to be as clear as the formal procedures suggest. There are a number of barriers preventing people from making use of the committee, including lack of information and bureaucratic obstacles. There is at least a question over the local authorities' powers to prevent committees being held. While there may be perfectly valid reasons for refusing to hold a committee, so long as the administration of the committees lies within the local authorities themselves, it will not always be clear to complainants that their rights have been upheld.

Those who attended complaints review committee hearings did not perceive them to be independent. Again the fact that they are administered by the local authorities and appear to be heavily dependent on the legal advice of the social work department means that complainants are not convinced of their independence. The question of how independent they need to be depends on the purpose of the committees. So long as their role is one of 'customer satisfaction' or is mainly related to managerial concerns with improving services or with reviewing policy then independence may not be crucial. However, if committees have a role in providing adjudication on legal rights, as some complainants seem to expect, then independence is

more important. Social work staff do not seem to see the complaints review committees as a tier on the ladder of legal rights. If this is not their role then a question arises as to where complaints about 'legal', matters should go, since there is currently no alternative mechanism.

It is clear that the current model does not offer a rights-based resolution of grievances. This may well be appropriate, given that many complaints are 'service based' but a system which works for these types of complaints may not work so well for those which are more clearly concerned with rights.

While it is not clear what direction the Scottish Executive will take in the reform of complaints review committees, one model is that which has been followed for health complaints, whereby complaints are dealt with initially by the health authority and second tier reviews go straight to the Scottish Public Services Ombudsman (Scottish Executive 2005). An advantage of this model is that advocated in the consultation on health complaints: it avoids duplication, it provides a simple and straightforward route, is clearly independent and it enables the powers of the Ombudsman to summon witnesses to be used effectively (Scottish Executive 2003b, para 71). If these advantages prove to be valid, then there is a lot to be said for following this model with community care complaints.

Chapter eight

Not Complaining

Most people who are dissatisfied with the community care services they receive (or do not receive) do not use the complaints procedure (Simons 1995, Preston-Shoot 2001). One of the aims of this research was to explore the barriers to using the complaints procedure. Some of the barriers have been explored in chapter six, which shows that not all expressed grievances are recognised as 'complaints'. However, this is only one barrier to complaining. This chapter explores other reasons why people do not complain.

A number of writers have considered the question of why people don't use formal dispute mechanisms (Cowan and Halliday 2003, Coyle 1999b, Dalley and Berthoud 1992, Genn 1999, Genn and Paterson 2001, Mulcahy, 2003, Pleasence *et al*, 2004; Sainsbury 1992, Sainsbury and Eardley 1991). The likelihood of taking action appears to have some relationship to gender, ethnicity, age, education, income and accessibility of advice services and information and the 'seriousness' of the problem (Pleasence *et al* 2004). However most studies of disputing behaviour have found that the likelihood of taking action is also closely related to the *nature* of the problem and the available remedies (Genn 1999, Genn and Paterson 2001, Pleasence *et al* 2004). Cowan and Halliday stress the importance of the relationship between the bureaucracies and service users who might have grievances. Their argument is that it is this relationship which will either encourage or discourage people to have trust in redress mechanisms (2003, p204-6).

Much of the research specifically on complaints procedures identifies common barriers to complaining and focuses on problems with the accessibility and openness of the procedure itself and the personal and social characteristics of potential complainants (Coombs and Sedgewick 1998, Leabetter and Mulcahy 1996, Lewis *et al.* 1987, Mulcahy and Tritter 1998, Preston-Shoot 2001, Simons 1995).

Some also discuss psychological barriers to complaining, including the fact that people are often unwilling to seem ungrateful for services or do not wish to be seen as awkward or to be 'moaners' (Coyle 1999b, Mulcahy and Tritter 1998). One of the problems here is that people may be reluctant to use the word 'complaint' to describe the action they have taken or wish to take. Research suggests that people do not like to 'complain' for two reasons: complaining suggests an accusation of fault while some potential complainants may not feel that any individual has done anything wrong; and some potential complainants may be concerned that complaining could lead them to be labelled as 'trouble makers'. Mulcahy and Tritter stress that complaints can become 'emotionally charged' on both sides (p841). Simons (1995) also finds this in his research. His interviews show that social work staff 'equated complaints with conflict' and that they felt it unnecessary to get something caught up in a formal procedure when it could just be 'sorted out' (p79).

People have a wide range of other ways of dealing with dissatisfaction with services, including 'lumping it' (Genn 1999, p69), although Mulcahy and Tritter (1998) make it clear that this is not necessarily a negative response:

people may have quite clear and understandable reasons for not pursuing formal procedures. Tanner (2001) discusses what people do on a practical level when they are refused community care services, including, in a few cases, exercising their right of 'exit' by using the private sector. In her article she does not discuss the possibility that people could have challenged the decisions by complaining. It must be assumed that neither she nor her interviewees realised that this was a possibility.

The current study approached the question of 'not complaining' in three ways: by asking complainants whether there had been times in the past when they had had a problem which they had not complained about; by asking all interviewees (complainants and social work staff) what barriers they thought there were to making complaints; and by asking focus groups if there had been times that they had not complained and, if so, why not.

Some people were able to talk about times when they had not complained and gave a variety of reasons for not complaining. These tended to be the people who had been using services for many years, either for themselves or on behalf of relatives. Others had not had problems in the past, either because they hadn't used social work services before or because they had always been happy with the service they had received.

The reasons that people gave for why they would not complain or why they thought other people would not complain were varied. Some were concerned with the nature of the problem, others with practical and psychological barriers created by the complaints procedure and some

concerned the (potential) complainants' cynicism that anything would change as a result of complaining

Nature of the problem

An obvious explanation for why someone might or might not complain concerns the nature of the problem: some problems are clearly more serious than others (in the complainant's view) and would merit complaints while others would not. For example Helen Fisher described a recent problem where the staff at the day centre her relative attended were refusing to brush her relative's teeth after meals, although they had always done this in the past. She explained that she did not consider this to be serious enough to put in a complaint.

Another reason for not complaining was that the problem was over and done with. Irene Burns described a time when her relative had been admitted to hospital in an emergency but was sent to the hospital without any escort from the care home she lived in. Ms Burns had been very upset about it at the time but said:

The next day I think [the manager] expected a blast but I didn't say anything. And she said she was very sorry, they had been short-staffed. But I didn't say anything. I thought 'it's past, it's gone'. She was being looked after and I was happy with that.

Although some interviewees had complained about this kind of thing, because they wanted lessons to be learned, other interviewees did not think it would be something they would complain about. The question of whether complaints procedures should be used for individual problems only or for

those which raise wider issues is one which runs through this research. In one of the focus groups there was a discussion about whether complaints were appropriate for raising problems which seemed to be affecting several people:

Davey McIntyre [describing a time when his home help hours had been cut] I saw that lad [the manager] and he says ‘Why is it you told me in the office that you call me ‘the scissors?’’. So I said ‘Well that’s what you are. You’re like a pair of scissors - you cut, you cut everybody’s time. So that’s why I call you Mr Scissors’.

Researcher But you didn’t complain about that at the time, did you?

Davey McIntyre Oh no - I didn’t bother. I just took it as normal. It was happening to everybody.

Researcher So when they make these changes across the board, you just accept it then?

Davey McIntyre We couldn’t do anything but accept it.

Helen Prentice Well if they’re cutting off and doing it to everyone, it would have to be that everyone would have to get together and complain.

FG members [general agreement]

Davey McIntyre They were cutting everybody at that particular time.

(Focus group 2)

In the same group there was a discussion about a particular problem with home help cover over holiday periods. Several group members had experienced the same problem but had not complained. Harold Webster, however, *had* complained and an arrangement had been made to resolve the problem to his satisfaction. He was aware that although this had solved his problem, there had been no change to the policy:

Harold Webster But the sad thing is, and I have to say it now, is that it has only been happening for me and not anyone else. And that’s not fair. Everyone should get it.

(Focus group 2)

This discussion shows that some people can be reluctant to complain if they believe that their problem is caused by a council policy which also affects other people. There are two aspects to this: on the one hand some people feel

that it is not worth complaining because it will make no difference; on the other hand, others may feel that it is not appropriate to use the complaints procedure for these matters. Helen Prentice's contribution to the discussion above suggests that issues like this should be taken up collectively.

It has been argued that the complaints procedure is not an appropriate avenue for 'collective' complaints and the Scottish guidance specifically says this:

Complaints should be 'individual' and treated as such. Authorities should refuse orchestrated campaigns which would put unfair pressure on their complaints procedures.

(Scottish Office 1996, para 37)

Several complainants talked about times when they had been involved in collective action. This had probably not involved using the complaints procedure, although they still talked about 'complaining'. A member of focus group three described a time when she had been involved in a collective action:

Mary Marsh Our group got advice from an advocacy group on behalf of Alzheimer's and we got one of our group to go along to the council, along with the advocacy service to hear our case.

Researcher That was a group thing?

Mary Marsh That was our care group. [...] We took it to the council because we felt in regard to Alzheimer's that we were getting a shabby deal. [...] It did go a bit further but we felt it got to a brick wall again. Not much happened.

(Focus group 3)

Anne Gray also described a time when she had been involved in collective action:

If enough people complained they would soon do something about it. We discovered that when they were closing [centre]. We got a committee to form with the parents and we created merry hell with them because we were concerned about what was going to happen to our people. The result was

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that there were four different organisations came out of the blue and they brought this forward and our people were all cared for. I don't think that would have happened if we hadn't made such a fuss.

In contrast to this example, a discussion in focus group one showed that some people might be deterred from complaining because their problem is *too* much of an individual one. In the example below, Molly Ramage described a time when she had a problem with a home help but didn't feel able to complain because she felt it was 'partly to do with me'.

So it got to the point that I dreaded her coming. And I thought well this is crazy, I'm paying her money. I couldn't fault her work it was a purely personal thing - partly me - and I just didn't want to get involved. So that was the way it went.

(Molly Ramage, Focus group 1)

This led on to a discussion of a problem that May Stevenson had experienced with a home help, and, again, had not complained because it seemed like 'a personal thing':

I didn't like her at all but I never complained. I just put up with it.

(May Stevenson, Focus group 1)

In both of these cases, it was the fact that the problem seemed *too* individual that deterred them from complaining.

An explanation for some people's complaints was that the incident they were complaining about made them angry. Anger was a theme which appeared in around a third of the complainants' accounts of their complaints. People felt justified in complaining because they were angry. People talked about being 'absolutely fuming', 'really furious', 'seeing red' and that it was this that had prompted them to make a complaint.

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Focus groups also talked about having to feel angry in order to make a complaint. In focus group one, Jeannie Dixon talked about what she would do if she was unhappy with a home help, jokingly describing her actions as having 'fisticuffs'. Focus group two also made a joke about the fact that they needed to feel angry before they would make a complaint.

'Anger' and 'upset' were expressions which sometimes went together. Irene Burns expressed her feelings in this way:

That's the first time I've felt angry, well not angry, but upset enough to complain.

Julie Douglas also talked about her complaint in terms of anger but she was also upset about the whole business and, at one point in the interview broke down in tears about it, saying 'I'm sorry but I just get so angry'.

This anger could be channelled into complaining in order to ensure that the problem wouldn't arise again. Anne Gray described her feelings in this way:

That's the kind of thing that makes me angry and makes me decide to get something done because it shouldn't happen.

These examples raise the question of whether people feel that there are certain types of problems that are more appropriate to 'complain' about than others. Some people were very keen to stress that they would not normally complain because generally they received a good service. The idea of complaining about people who were otherwise hardworking and caring was difficult for them.

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It's a demanding job. [describes the work care staff do in looking after her relative]. You see all this happening and it makes you very loath to complain if you know something is not right.

(Irene Burns)

This raises the question of whether it is the word 'complaint' which makes it difficult for some people to raise issues. The problem of not wanting to 'complain' is discussed further below.

Practical barriers

Other reasons for not complaining related to the practical barriers involved in making a complaint. Several people discussed the energy that was needed to pursue a complaint and said that they would be less likely to complain when they were physically or emotionally drained. Jennifer King explained that complaining was often the last thing on her mind when she was caught up in the daily effort of caring:

The problems of having a child with a disability, you're fighting all the way from birth up until, well, forever - for services. You get fed up in the end.

The carers' focus group also emphasised the difficulty of finding any time or energy to complain:

Mary Marsh You're drained at the time. You're so caught up in it, you can't get the freedom to even go and moan on the phone or whatever. You need time to do all that.

FG member You're too tied up with daily life to do that.

Marion Wallace With daily living.

George McIntosh That's right.

Mary Marsh I didn't do very much when I was actually in it working. I did a lot afterwards [after my relative moved into residential care]. ... I had more time to complain. I was at home and I wrote.

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Other interviewees talked about the difficulties of time, energy and the physical effort involved in making complaints:

If I'm not well I can't do it. I just go straight to bed, I'm just not a hundred percent but when I'm all right, if something needs sorted, then I'll do it.
(Claire Elliott)

Although the complaints procedure does not require people to put complaints in writing, some interviewees pointed out that the possibility of having to do so would put people off:

The minute most people are told to put it in writing is the biggest drawback of all and this is why they get away with it. Because most people will complain but they won't put it in writing. Sometimes even people must find it hard to compose letters and things and I know I have to work hard at it.
(Catherine Lawson)

Focus groups also discussed the importance of putting concerns in writing to ensure that they were properly dealt with:

If you put it in writing they've got to reply to you, where a phone message, they don't need to reply to you.
(Jeannie Dixon, Focus group 1)

Members of focus group four were particularly exercised by the issue of putting things in writing. One member of the focus group was worried about her ability to spell, while others were concerned about the implications for people with visual impairments:

Susan Green Can I just say something? A lot of disabled people ... I'm no good at spelling so I hesitate to put it in writing and a lot of disabled people can't write for that purpose. They would get more complaints in.

Researcher So what do you think they should do about that? Should they make it easier for people to phone or ...?

Susan Green Yes.

Catherine Scott Well that's what I always think. I always phone because I can't see to write.

Susan Green I'd love to write. I've got plenty to say. I could write a book.

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Gillian Nisbet I'll write it for you, Susan.

Susan Green That holds a lot of people back as well

This group went on to discuss how having to put things in writing causes particular problems for visually impaired people. They discussed a time when Gillian Nisbet helped her visually impaired relative to make a complaint to the social work department:

Researcher Did you ever get a response to that?

Gillian Nisbet No.

Researcher You don't think you did?

Gillian Nisbet He got a letter.

Catherine Scott Again, a letter.

FG members [laughter]

Gillian Nisbet Yes, a letter. I could frame the wall with the letters. According to Blackpool, the, what do you call it?

Researcher The DLA people?

Gillian Nisbet Yes, the DLA - according to them, he's the first person in Britain to ask for his letters on tape or disk.

Catherine Scott They're telling lies then.

Gillian Nisbet I know but that's what they said.

Catherine Scott I've asked time and time again but you never get it.

Gillian Nisbet Now he gets all his letters from the DLA or the social on disk and by law they've got to send a letter as well. We found that out.

Researcher But social work don't?

Gillian Nisbet Social work – no.

Ewick and Silbey (1998) discuss the importance of 'putting things in writing' as one of the ways that people engage with 'legal' issues. They argue that 'putting it in writing or filing a complaint is seen as a necessary step in engaging or mobilizing the institutional machinery' (p101). So although, in theory, community care complaints can be accepted verbally, people may still feel that they need to make a complaint in writing in order for it to have the necessary force. If writing creates practical problems for them, this can act as a barrier to complaining.

Phone calls ought to be easier but even making a phone call can be difficult for some people. Janet Lucas described how the sheer physical difficulty of making phone calls was a barrier to making complaints:

Janet Lucas [discussing a recent problem with a stay in hospital] but who deals with the hospital then? Because I can't get out and do things. I can't even speak on the phone now not even hold a decent conversation with anybody.

Researcher So you're really relying on other people to do things?

Janet Lucas I'm relying on them for absolutely everything.

Ms Lucas needed the physical and practical help of other people to carry out the most straightforward tasks, such as making a phone call, and, having no family around, relied completely on professionals. This, she argued, could make it difficult for her to make complaints. This problem was also identified by Anne Gray:

Some of my [relative's] friends don't have any family and some of them are living in flats or in institutions and the point is that they are dependent on the people who are working with them to fight their battles.

Advocate N, pointed out that this also caused a problem for people in hospital and presumably in any residential setting, emphasising the practical difficulties of getting access to phones in these circumstances:

I think most of them in the hospital would think, it's an insular wee group and it's too close to be going in there and making complaints. Even just getting access to phones and things. It's really difficult in a hospital to make a call.

Evelyn Johnston also talked about the difficulty of writing letters and making phone calls. She had devised a system where she stored the numbers she needed most often on her mobile phone but found using the phone difficult for other numbers. For instance, in my efforts to contact her to arrange an interview, we could communicate only by letter. She relied on her home

helps to read my letters suggesting appointments but was then unable to contact me when she could not make the agreed dates. As far as her complaint was concerned she had a particular problem because she wanted to complain about her social worker and his was the only number she had:

Evelyn Johnston When I was writing [the letter] out I thought I should have just phoned them but I didn't know who to phone because the only one I knew was [my social worker] because I didn't know any other numbers and I only had his number in my mobile and it was harder.

Researcher So you only had his number?

Evelyn Johnston Yes and it was harder to say it to him, so I just wrote the letter out and sent it away.

Ms Lucas and Ms Johnston had found ways of getting round the practical difficulties of making complaints and others explained that they had got help from family, friends or, in some cases, other social work staff. But, given the difficulties that many people in need of community care services have, these barriers can be insurmountable.

One obvious answer to this problem is advocacy and a few of the people I spoke to had got help from advocacy services. Sandra Hunter described how the advocacy service had helped her:

They helped me. They actually wrote it out. They do the writing if you're not very good at things like that, they'll do the writing for you. You tell them what you want to write and they put it into words for you and then you sign it.

However, advocacy services are thin on the ground, particularly those specialising in the needs of older people and those with physical disabilities (Advocacy Safeguards Agency 2004, Genn *et al* 2004). Moreover, contacting the advocacy service in the first place creates many of the same problems as contacting the social work department. Recent research has also indicated

that people with long term health problems or disabilities have more difficulty accessing advisers than the general population (O’Grady *et al* 2004).

Confidence

The interviewees also talked about the need for confidence in taking on the social work department. Sandra Hunter had made her most recent complaint with the help of an advocacy agency. She said that in the past she would not have had the confidence to complain about services and would just have put up with it:

It’s really just in the past couple of years I’ve started doing things. I used to just go my own way with my [relative] and I’ve not been pushing for things.
(Sandra Hunter)

Many of the people I spoke to however described themselves as ‘fighters’.

Molly Ramage, in focus group three, illustrated the point by saying:

And anything in life for him I fought the hospital and everything else. You can’t just sit back and say ‘yes sir, no sir, three bags full sir’. You have to get up, even to the very end, you’ve got to fight.

They distinguished themselves from people who they felt would not be prepared to be so assertive about their rights. The examples below illustrate the ways in which people talked:

I normally get things done by digging my heels in and demanding. It’s not a very nice way of doing it but sometimes it’s the only way.
(Anne Gray)

I am quite sure that the lady that was dealing with it said ‘We’ll sort that out. He’s an old so and so. He’ll pay up if we send him a bill’. However, they didn’t know who they were dealing with.
(Thomas Beattie)

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Some people don't have the courage to complain. They don't like to cause trouble, they like a quiet life. It depends on how you're trained. I enjoy it. I think it's necessary and I think I'm quite good at it.

(Mary Nicholson)

This idea that people need to be 'fighters' ran through several interviews. Linda Adams talked of being a 'like a wee terrier with a rabbit'. This outlook typified people who viewed the system as one that had to be 'taken on' if they were to get anywhere with it. This was a view which was held particularly by people who had been users of social services for many years. Jennifer King explained how she had not complained about a problem in the past because:

you just have to fight for a whole lot of things throughout that you just get exhausted.

Many interviewees believed that 'other people' would not have the confidence or the sticking power to 'fight' the system in this way.

Another element of confidence in making complaints concerns the impact it might have on the complainant or their relative. Most of the individual complainants did not express this worry because, by definition, they had overcome it to make a complaint. However, Thomas Beattie, who was otherwise quite confident about complaining, described a time when he had been concerned about the quality of care provided in his relative's residential home. He had been perfectly happy to complain about a related financial issue but had not complained about the care itself because he was worried about the effect it might have on his relative:

Researcher But you didn't raise that as a complaint?

Thomas Beattie No. My [relative] was pretty well traumatised by the whole thing [...] because I don't want my [relative] to get any further bother, I don't want people to question her. Because in fact with her state of mind she

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probably wouldn't remember and obviously the people at the home would be quite prepared to say anything and social work were quite prepared to support them.

Catherine Lawson also explained that she would feel much more nervous about complaining if she was complaining about personal care:

Say that we were getting home helps in here, I think that would be very, very difficult and you would be quite nervous and frightened about what might be done to you or you'd be treated badly.

Janet Sinclair had helped her relative to make a complaint about another relative who lived in residential care. She explained that she had been worried about complaining because her relative would still have to visit the residential home:

I felt apprehensive about it because I thought, if I write there, to put it bluntly, my [relative's] at their mercy and so is my [other relative] because she's having to visit there. I was apprehensive about writing there but I thought, my [relative] feels so strongly about this that I have to go ahead and do it because she's asked me to.

Members of focus group three had also chosen not to complain in the past because they were concerned about the possible effect on their relatives:

Nelly Smith Now I was in this house for fifty-six years and this OT told me I would have to move house. I was breaking my heart that day.

Researcher Did you do anything about it?

Nelly Smith No. I didn't because you're frightened to do things, when you're old.

FG members [agreement]

This point was also made at another stage in the discussion:

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Marion Wallace You still need the services that these people provide.

FG members [agreement]

Marion Wallace I think perhaps you do get a bad reputation of being a complainer.

Researcher Does that worry other people?

Nelly Smith Yes.

Marion Wallace Well I find it a worry.

Nelly Smith Yes, because you still have to live with it.

Marion Wallace Because you still need the services of these people.

This worry about how it might affect services was something that the focus groups and many interviewees thought would prevent other people from complaining:

Facilitator¹⁸ But would you worry that there might be repercussions?

Mary Kennedy There's always a thought of that.

May Stevenson I wouldn't like to complain just in case. It would be better having her [the home help] than nothing
(Focus group 1)

I think they're in fear of the organisation. They're in fear of the establishment. I'm not, never have been. I think some people, unfortunately, are of the opinion that if somebody in authority says something, they accept it and they don't question it.

(Anne Gray)

Fear of the consequences of complaining has been shown to be particularly significant for people in residential care (Harding 2005, Office of Fair Trading 2005). Research in this area has pointed to the importance of advocacy to help people make complaints and independent procedures to enable a more arm's-length approach to the problem. Since most residential care is now provided by the private and voluntary sector, complaints should go to the Care Commission rather than through the local authority complaints procedure. The Care Commission can also deal with complaints about any registered service, which would also include those provided by local

¹⁸ In focus groups one and two there was a 'facilitator' (see chapter three).

authorities. Few of the complainants in this study were aware of the Care Commission or its role in complaints. The Care Commission was relatively new at the time of the study (it was set up in 2002 and did not take over responsibility for regulating home care services until 2003). Thomas Beattie's potential complaint, described above, could have gone to the Care Commission. He was aware of the Care Commission and its role and in fact had contacted the Commission before his relative moved into care but he still did not make a complaint about his relative's care because he was concerned about the consequences.

There was a discussion in Focus Group three about complaining to the Care Commission, where Mary Marsh and Maisie Tait described having used it to complain about problems with residential care:

Researcher You've both talked about using the Care Commission - it's quite new. I don't know if you all know about it? Do you think it's made a difference?

Marion Wallace It will if it changes things.

Mary Marsh It did make a slight difference in that they changed some of the staff.

Maisie Tait They did that in my place. They did change things.

However, despite having made complaints and seen some improvements, they were still unhappy about having to use the services. Mary Marsh felt that her complaint had 'backfired' on her relative:

I just felt 'This is a nightmare. I'm going to do something about this.' But it all backfired and was transferred back to her. 'She was a difficult lady, she wouldn't do this and she wouldn't do that'. For goodness sake she's got dementia!

Maisie Tait had been using the residential services for respite only and, after her complaint, was reluctant to use them unless she was very desperate:

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Pat Temple Do you still put him in for respite? Put him in to that home?

Maisie Tait I don't like doing it but he'll be going in shortly - the last respite was a year ago at Christmas.

Pat Temple Because you need a rest yourself.

Maisie Tait I don't think ...

Nelly Smith But if she worries herself sick it's not a rest.

These examples illustrate the point that people can be deterred from complaining because there may be repercussions for the complainant or their relative. Even where people have made complaints, the worry can continue. Maisie Tait, by deciding not to make use of the respite service since making the complaint, was using the option of 'exit' but she did not have the option of using another service instead.

Mary Nicholson, on the other hand, brushed off any fears about the consequences of complaining:

I wonder what would happen if I wanted a service now? Would they remember that I was the one who threatened them with the *Sunday Post*?
[laughs]

It is difficult to establish how far 'fear of the consequences' does deter people from complaining but it appears to be a barrier for some people.

Knowledge of the system

Although many of the complainants and members of the focus groups had made a complaint despite a lack of knowledge of how the complaints system worked, several of them were keen to emphasise that their long experience of the social work department or having relatives who worked in related areas had made them more able to complain than others. Around two thirds of the individual complainants had been receiving services from social work for

more than three years, while some had over forty years of dealing with the 'system' on behalf of themselves or relatives. Anne Gray and Angela MacDonald, who had looked after their relatives for many years, said that this experience had led them to be more assertive about the services they were offered:

Anne Gray I know it now. I do know it. I know exactly what to do and who to contact. But I would use anybody if I thought it was going to help. [...]

Researcher You're obviously very experienced - do you think people who don't have that kind of experience would find it so easy?

Anne Gray They can't do it.

Researcher So how do you think they would get on?

Anne Gray They can't do it. I don't know what they do. They must be in despair because they must see that their son or their daughter is needing something and it's not available for them and they don't know who to turn to. Who can they turn to?

Researcher So you think that having that level of interest or knowledge makes a difference to the services you're likely to get?

Angela Macdonald Yes. Because you're not likely to just accept what you're offered and you're more ready to question and try to work towards things that are better. I could just as easily have accepted the fact that they said that [they wouldn't provide the service] and some people would accept that.

For these people, it was experience and knowledge of dealing with social work that had given them the confidence to make a complaint. A couple of people referred to trade union experience as having been helpful in enabling them make complaints:

I know the system well enough. Both my daughters worked in social work. One [...] was a trade union representative so she still can tell you everything that's available and the complaints procedure and all the rest of it.
(Elizabeth Ross)

I had some experience in the trade union movement so I wasn't overawed when I was meeting people but I found it difficult myself to understand the jargon and what was the right of reply.
(George McIntosh , Focus group 3)

Not knowing the system was a reason that many people gave for ‘why other people don’t complain’. Several people talked about the difficulty of finding out about services:

Researcher Obviously there’s people like yourself who maybe don’t have family around and are relying on social work, do you think it’s easy for them to take up things with social work when there’s a problem?

Janet Lucas No. Not really, no. Because there’s no cut and dried rules and they don’t really know where to go to.

Ms Lucas was making the point that it is difficult for people to complain about services when they don’t know what services might be available in the first place or what standards to expect. Some complainants talked about how they had been more nervous in the past but were now more aware of their rights. Sandra Hunter stressed how she had come to realise that she had rights within the community care system as a result of being involved in a carers’ group. She felt that seeing services in terms of rights had made it easier for her to complain:

I think if they knew it was our right to complain it might not be so hard. If you knew that if you weren’t getting the services, you had a right to complain.

Elizabeth Ross also talked in these terms:

I think if they made it plain to the people when they start to assess them or whatever, if they told them then how to complain if they weren’t happy with things, they might get more. It would help the people anyway. At least it would give them an idea that they could and that they didn’t have to just accept what was handed to them.

Members of focus group four also discussed the value of advocacy organisations in giving people the confidence to assert their rights. In the following extract, the group was discussing whether they had ever felt too nervous to make a complaint:

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Researcher Is that something that you've ever felt?

FG members Yes, we have thought ... yes

Catherine Scott I don't think like that now.

Researcher Why would you feel that?

Catherine Scott I don't think it now but at one time I did. I used to be very, how can I put it, scared of everybody but since I came to the [organisation] things have changed a lot - I don't think like that now.

Most members of the focus groups also said that they did not know about the complaints procedure or how it would work, although most had a sense that they could complain to someone 'higher up' if they were unhappy:

We all know about the office and the manageress and everything but we don't know, or at least I don't know, who is higher up that you could complain to.

(Cathy McLaren, Focus group 2)

This lack of knowledge of the workings of the complaints procedure reflected a general lack of knowledge amongst some of the focus group members about how their local authority services were organised. Focus groups discussed the difficulty of obtaining information and some held the view that the council, perhaps deliberately, withheld information to prevent people from demanding services:

Cathy McLaren We don't get told about anything. I feel that we don't get enough information about anything.

Harold Webster They only let you know what they want you to know.

Cathy McLaren That's right.

(Focus group 2)

Mary Kennedy It's like the railways – cheap fares. They never tell you unless you go in and find out that you can get a cheap fare.

Researcher Do you think the council's the same?

Mary Kennedy I think so because ... we have a group for carers and there were lots of things that we didn't know about.

Molly Ramage Is that a deliberate policy? To save money I suppose?

Jeannie Dixon I suppose so.

(Focus group 1)

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Some members of focus groups also felt that they had been, or could be, labelled as trouble makers because they had asked questions or made complaints in the past:

Susan Green But they have their favouritism because I answered back. I can be quite angry. I'm not going to pretend that I'm not.

Gillian Nisbet You just said Susan, you answered back.

Susan Green I answer back. I ask 'why and how?'

Gillian Nisbet This is it.

Researcher So what happens when you ask 'why and how?'

Susan Green You don't get the right answer. They don't like you.

Researcher Do you think you get labelled?

Catherine Scott As a trouble maker.

Susan Green I answer back. But it's always 'take it or you're not getting it'.

(Focus group 4)

Members of focus group one were quite deferential and felt that they could not argue with a decision made by the social work department. In this sense they did not see the procedure in terms of rights. Here they were discussing what they could do in a hypothetical case where services had been refused:

Jeannie Dixon You would just have to listen to what they said, I would think.

Marie Paterson Go to your MP!

FG members [laughter]

Jeannie Dixon Yes, write to the MP!

Mary Kennedy You would just have to accept it.

FG members [general agreement]

(Focus Group 1)

Here the references to going to the MP were not being made seriously. The group had a standing joke about 'writing to your MP' or 'taking it to the Scottish Executive' as the solution to all their problems. They were not suggesting it as genuine option. They explained that they did not like to question decisions:

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Jeannie Dixon It's our generation to accept things. You don't want to go cap in hand. I wouldn't go cap in hand asking for money. I wouldn't do that. So because they sent me a letter that I was to pay so much, I just wrote a cheque and gave them it.

Molly Ramage It's custom you see. You think, they're the officials. You trust them that they know what they're doing, hopefully.

Some people talked about their involvement with support groups and how this had been a useful source of information for them. Helen Fisher described this as something that the social work department might disapprove of:

Helen Fisher When the mothers are together, it might not suit the social services, but when we get together it's 'oh I put in for this' 'Oh I got that' 'Oh how do you go about that?'

Researcher So it's a way of passing on information? Do you find that people who are newer to dealing with these issues come to your group for advice?

Helen Fisher The group? Yes, we work as a group, so if anybody needs anything, say their child's getting bigger or they've got more family and they need an extension, it'll be 'See so and so because they've done it'

Angela MacDonald confirmed the value of information passed on in this way:

I can say categorically that the best information always comes from other families, without a shadow of a doubt.

Catherine Lawson also described how she had found information through a support group, although, in this case, the information had come from a member of social work staff:

Actually, how did I find out? Oh yes, I went to a [voluntary organisation] meeting and it was a social work manager who came and addressed the meeting and it was him who told us you could get things like [equipment] and I was absolutely amazed because we hadn't realised we could. Well, I hadn't thought. You know you never think you're going to get old yourself. You're never going to need these things.

Like the complainants, many of the social work staff and voluntary organisation saw lack of confidence and lack of knowledge as barriers to

complaining. An advocate who worked with people in hospitals noted the particular difficulty that these clients experienced with accessing information:

I did ask for these leaflets to be put in the ward because it wasn't obvious to patients in the ward how to complain about social work. While they are making it more obvious about the [NHS] trust now it's much more up front now and the letters are there and there is a policy and this is how you complain. I don't know if people would be more likely to complain if they knew about it.

(Advocate N)

The difficulty described here also touches on the problem of overlap between services provided by health services and those provided by social work. The distinction between the two services is not often clear to service users.

One social work manager identified people from ethnic minority communities as being unlikely to complain and linked this to the problem that these groups are often not well informed about their rights to services generally:

One of the issues is, in terms of this area, is the minority ethnic community and we are very alert to the fact that service users from that community are lower than the population would imply, and the number that do use it, then the percentage that complain is then very small. So we try very hard to make sure that people realise that services are available and in a sense that's the starting point for people to then say that that's not good enough or that's not meeting my needs. So there's a bit of pro-activeness about what people should be able to access before they can start making complaints.

(Social work manager 4, Duncairn)

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I just think people have very low expectations. I think there are very low levels of information about what people can expect from public services. If you don't know what you're entitled to then how would you know to complain?

(Social work manager 1, Duncairn)

These views suggest that knowledge and confidence may be keys to whether or not people are likely to complain. A couple of people felt that there may be a general aversion to complaining amongst the older generation, something which is often said in general literature about complaints mechanisms, but is difficult to substantiate. Certainly there were several assertive and knowledgeable older people in this research sample (half of the individual complainants were over 60). The rhetoric that 'older people don't complain' conceals more than it reveals, since it is rare to find a definition of 'older people' or much discussion of the effect of different cohorts of 'older people', or the relationship between age and social class. Genn and Paterson's study of people who experienced 'justiciable problems' found that there was an age effect, with fewer people over the age of 55 claiming that they had experienced a 'justiciable' problem than younger people (Genn and Paterson 2001, p83). They argue that this may be the result of older people being more fatalistic about problems but they do not comment on whether this is likely to be the result of age itself (in other words, experience) or a characteristic of a particular age cohort.

Cynicism

Lack of confidence in whether complaining would make any difference was another reason that people gave for not complaining. The reason for this lack of confidence was a cynicism that anything would ever change.

Some people expressed these views in terms of resources and a recognition that they needed to be rationed somehow. They would complain if they felt that their or their relative's need was sufficiently pressing but not otherwise:

Researcher But you never thought about complaining about that sort of thing before?

Jennifer King I don't know. You get so fed up sometimes. The reason I probably didn't was because I knew the services weren't there.

I never felt like complaining because these places had gone to people who I could not argue had greater need. Although it was an irritation and I didn't think I could complain about something going to somebody with hugely greater need when [my relative] and I could manage without. I know logically it's a question of resources. There's never going to be enough money to do everything that people want to do.

(Angela Macdonald)

One of the social work managers explained this unwillingness to complain in terms of older people's 'realistic' attitudes:

But invariably you're looking at an older population with a different attitude to life, a different attitude to what they expect in terms of service, more realistic perhaps, but a not untypical response to this research [previous research carried out by the authority] was 'well we knew you were busy and we know you'll do it as soon as you can'. A generation that behaves differently I think.

(Social work manager 1, local authority 1)

However there was also an element of cynicism amongst some people that 'they never listen' or they always come up with excuses'

Cathy McLaren You need people to help you. But they don't have enough. If you say anything this is what you get told.

Harold Webster Exactly.

Facilitator Should your quality of life suffer because you're not so able to do things?

Harold Webster Yes, but they can't afford it because there's too many old fogies and that.

Cathy McLaren That was what I was told. I wasn't complaining. But someone came along and we were told about things and she said 'The thing

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is we can't do everything that needs done because we've got so many more people on the books'.

Harold Webster that's the general answer you get.

(Focus group 2)

George McIntosh Of course they'll tell you, their stock phrase is 'These are isolated instances'. These are common.

Marion Wallace They're common

George McIntosh They are common

Marion Wallace They'll tell you they haven't got enough staff.

(Focus group 3)

Cynicism does not always stop people from complaining and some people make complaints anyway even though they don't really believe it will make any difference. This has been found to be the case amongst health complainants (Mulcahy 2003, p85) and amongst people who challenged homelessness decisions (Cowan and Halliday 2003, p170). Cowan and Halliday suggest that some people overcome scepticism out of desperation, which is quite understandable in the context of people experiencing homelessness. This seems to be a less likely explanation in some of the cases described here. Anger and the importance of calling the local authority to account, even when combined with cynicism, seems to be a more likely explanation. However cynicism will continue to act as a barrier to many potential complainants.

Negative perceptions of complaining

Another barrier to complaining which emerged from this research was the meanings associated with the term 'complaint'. This was summed up by Angela MacDonald:

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I think to call it a 'complaints procedure' is something that takes it a bit further than you'd like to do when what you really want is arbitration - for somebody to make their mind up about what kind of service you should be getting - whether they should be providing it.

Complaints have negative connotations. Many people in this research spoke about complaints as if they were something to be ashamed of, or at least something which they felt they had to justify doing. This has been recognised in research on complaints in other areas (Coyle 1999b, Moore 1994, Mulcahy 2003). Mulcahy and Tritter recognise this in complainants' (or potential complainants') attitudes to complaining and their need to 'establish their status as credible and legitimate critics' (1998, p841). Coyle argues that people need to do this in order to protect their 'moral identity' as knowledgeable and reasonable people (Coyle 1999b, p726).

Showing that they were not 'complainers' was important in many people's discussions of how they normally behave:

I have to say I don't like complaining. It's not my habit to complain. I feel a bit guilty about complaining.
(Harold Webster, focus group 2)

Joan Pearson had felt particularly badly about having to 'complain', as if it was something that she felt apologetic about:

This is when the complaint, I find it awful to say that, the complaint happened.

Complaining is sometimes associated with being difficult. One of the advocates I spoke to was uncomfortable about making complaints on behalf of clients and was keen to stress that this was not something that he normally did:

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When I got your letter saying about complaints I thought 'Oh no, I'm going to seem like a right trouble maker'. But I'm not.
(Advocate T, Duncairn)

Voluntary organisations during the exploratory research had also pointed out that an attempt to 'sort it out' was more likely than using the complaints procedure because it is seen to be more like 'solving the problem' rather than 'apportioning blame'. Individual interviews with advocates who had made complaints also said this:

So most of the time we just get things done through talking, or writing to the social worker directly, rather than writing a letter of complaint.
(Advocate M, Duncairn)

Some of the interviewees also talked about 'other people' who would complain at the drop of a hat and felt that it was important to distinguish themselves from people like that. A particularly clear example of this came up in the discussion in focus group one. Here I was describing my research to the focus group members and their reaction was that people who complain must be 'right moaners', implying that this was something that they disapproved of:

Some people, if they were bored, they would think 'I didn't like that man. I'll just complain about him'. And it's nothing. It's just filling their time because they're bored. That's what I mean.
(Jeannie Dixon, focus group 1)

On the other hand, they felt that it would be all right to make a complaint if they could justify it:

Facilitator Would you feel you were being a bother if you complained?

FG members [General chorus of 'no']

Angela Watt No, it's your right to complain if you're not satisfied

Jeannie Dixon You would have grounds for complaining wouldn't you?
(Focus group 1)

The same group was also reluctant to describe their attempts to resolve problems as ‘complaints’:

Facilitator Would you call that a complaint or just raising awareness that something hadn’t happened?

Marie Paterson A slip up sort of thing.

Mary Kennedy It’s not a complaint really.

FG members [general agreement]
(Focus Group 1)

Discussions in focus group one indicated that, for some people, complaining would feel like failing because it would be an admission that they could not cope.

[describing a time when she had been discharged from hospital and was unhappy with the assessment carried out by the occupational therapists] ... but I was expecting some help when I got home. They were from the hospital but I told them not to bother coming back. I could trackle away on my own but I didn’t want someone to order me to do it.

(May Stevenson, Focus group 1)

Tanner’s research with people who had been refused community care assessments shows that, for older people, it is important to maintain ‘personal identity’ by showing that they *can* cope, even when they have been refused services (Tanner 2001). Although she does not discuss whether any of her interviewees had considered complaining, Tanner’s research would seem to support the views expressed by the participants in focus group one.

Social work managers also spoke in terms of complaints as negative, although they also recognised that people had a legal right to make complaints. Social work manager four described complaints as ‘criticism’ while social work manager three was concerned that too much emphasis on complaints would lead to ‘a complaints industry in the sense that we live in a fairly litigious world’.

Social work manager two distinguished between complaining about the system and complaining about individuals, showing that the negative connotations of ‘complaining’ can put people off complaining

What they say is ‘It’s not right’ and they *do* want to complain. They want to complain about the lack of resources. They don’t want to complain about the person who’s organising or whose job it is to progress it or who’s in regular touch with them, if they have a care manager, but what they need is a service from an occupational therapist then they’re not complaining about the care manager but about the lack of the service.

(Social work manager 2, Duncairn)

Another way in which complaining came across as negative could be seen in the way in which some people were at pains to tell me that they were generally happy with the service they received:

I’m very, very thankful for the support I’ve been given. Despite the complaints and what not.

(Claire Elliot)

Every other person, and I’ll say this so you get it on your tape, every other person I’ve had since 2000, [has provided] a wonderful, wonderful service.

(Joan Pearson)

Anne Gray wanted to show that she could also compliment the social work department:

I wrote in and congratulated them on the service, because I may complain but I’m quick to acknowledge that something’s been done in a proper manner.

These interviewees felt that it was important to make sure that I understood that, although they were prepared to stand up to the social work department if necessary, they were not usually ‘complainers’. Members of focus group one were also very keen to stress that they were generally happy with the

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services they received. It was almost as if even talking about complaining was disloyal to their local staff.

Marie Paterson I still think it's a very good service.

FG members [general agreement]

Jeannie Dixon One lady said to me 'if you want to be ill, be ill in [Kinraddie]'.
[Kinraddie]'

FG members That's right.

Facilitator They should have it as part of the tourist information.

FG members [laughter]

(Focus group 1)

The evidence discussed above suggests that 'complaining' carries negative connotations for some people and that this may create a barrier. Some people find 'complaining' difficult, as it implies assigning blame, when they are otherwise content with the services they receive. On the other hand, some people are angry about the problem they have experienced and do wish to 'complain'.

Conclusion

The evidence presented here shows that the barriers identified in other literature, for example the accessibility of the procedure, the attitudes of staff and the personal characteristics of complainants, are also important in community care complaints. However, the examples described here also illustrate the point that people cannot be neatly categorised as 'people who complain' and 'people who don't complain'. Their propensity to complain will vary depending on the circumstances: the nature of the problem, their own health and energy, how they think it will affect their relative or themselves, an awareness that they are competing for scarce resources, confidence or cynicism in the complaints procedure, knowledge about how

the system works and whether or not they have support to take their complaint forward.

Support to pursue a complaint can be provided by voluntary advocacy agencies, family, friends or social work professionals. A few of the people in this research had used advocacy agencies directly to help them make complaints but more had got information from support groups and voluntary organisations. Others had used family members to help them write letters or fill in forms. Some had got help directly from social work staff. One of the social work managers was keen to stress that social work staff ought to operate as advocates because 'that is part of the care management role' (Social work manager 3). Although he recognised that there could be a conflict of interest, he believed that:

it's a failing on our part that people often find the system so difficult to understand. People should be able to walk in our door and be met in a way that is devoid of bureaucratic language etc and be helped through it.

Although some social work staff may be able to help people make complaints about other parts of the system, others would find themselves in an awkward position and might not be able to help. Forbat and Atkinson (2005) outline the difficulties that social work staff face in attempting to act as advocates for service users in the context of (potential) disputes with local authorities, recognising that it can be very difficult for them to fulfil this role. The evidence discussed in chapter six shows that some people found that social work staff were unwilling to help them with their complaint and that others would not have wanted to approach local staff anyway, because 'they were the ones that started it all'.

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Lack of information is clearly a barrier to complaining and many interviewees said that better information about services and about the complaints procedure would help. However, information is not enough. The barriers created by lack of confidence, cynicism and the negative connotations of making a 'complaint' are perhaps equally important and much more difficult to overcome.

Chapter nine

Models of justice and the purpose of the complaints procedure

Throughout this thesis I have argued that the community care complaints procedure may have several purposes and that any assessment of its effectiveness would depend on which purpose was being considered. In chapter two I showed that redress mechanisms have two primary purposes: providing redress to individuals; and providing managers with information in order to improve services. I suggested that it would be helpful to use the idea of models of administrative justice to look at these purposes further, distinguishing between legal, consumerist, professional, managerial and bureaucratic models. This chapter explores the community care complaints procedure in relation to these models by considering the views of individual complainants, focus group members, advocates and staff responsible for the complaints procedure.

The models of administrative justice used in this chapter are based on Mashaw (1983), as adapted by Adler (2003 and 2006). Other writers have also contributed to this debate, although not always using the same names for models (Braye and Preston-Shoot 2006, Dean 2002, Halliday 2004, Mulcahy and Allsop 1997). Adler argues that the models are not mutually exclusive and that each of the models reflects the concerns of different interest groups (2006). Chapter two describes the models of justice and shows how they might apply to decision making in community care. This chapter explores the extent to which the different models of *redress* can be found in the community care complaints procedure.

Models of justice and approaches to complaining

Adler argues that different models of justice are associated with different modes of redress (Adler 2006). Figure 9a below outlines the main modes of redress characteristic of different models of justice, their purposes and the attributes associated with each.

MODEL OF JUSTICE	Characteristic mode of redress*	Purpose of redress mechanism	Attributes of redress mechanism
Consumerist	Internal complaints mechanisms.	To provide satisfaction to the consumer. To enable the consumer's 'voice' to be heard.	Not independent. Close to service provision. Focus on the user's views.
Managerial	Publicity. Complaints mechanism.	To provide managerial information to inform future policy, staff management and/or allocation of resources.	Not independent. Close to service provision. Careful record keeping to enable information to be passed on.
Legal	Appeal to a court or tribunal.	To ensure individual rights to services and/or to be treated fairly.	Independent. Legal values. Reliant on the law.
Bureaucratic	Administrative review.	To ensure systems are operating correctly and efficiently.	Not independent. Reliant on rules.
Professional	Second opinion or complaint to a professional body.	To ensure professional standards are maintained.	Independent. Professional values. Reliant on professional knowledge.

*based on Adler (2006), table 3

Figure 9a Models of justice and redress mechanisms

It is important to note that these models emphasise different purposes. The consumerist and legal models have essentially 'bottom up' purposes, focused

on the needs or rights of the individual. However, the managerial, bureaucratic and professional models have primarily 'top down' functions, where the managerial and bureaucratic models are concerned with the needs of the organisation and the professional model is concerned with maintaining standards within the profession.

In this chapter I consider the extent to which the users and managers of the complaints procedure draw on these different models. Individual complainants saw the purpose of making a complaint in different ways and this was partly dependent on what their problem was about. For example, those who were complaining about a failure to provide services or a dispute about a financial matter were more likely to see their complaint in legal terms, while those complaining about staff attitudes were more likely to see their dispute in terms of their own needs as 'consumers' or about passing on information to management to ensure that similar incidents did not arise again. In practice these purposes overlap and it is not always possible to separate them out. In order to explore this issue further it is helpful to look at examples of different approaches.

Consumerist model

It has been argued that the consumerist model of justice is typified by having internal complaints procedures as the primary redress mechanisms (Adler 2003 and 2006, Mulcahy and Allsop 1997). We would expect to see a strong consumerist element within community care complaints. However, a consumerist purpose to the complaints procedure is difficult to define. Different writers have described consumerism in different ways. Adler

distinguishes the consumerist model of justice from the market model, arguing that the consumerist model has 'voice' as its main means of redress, while the market model relies on 'exit' (Adler 2003 and 2006). Halliday , however, argues that, under 'new public management', elements of the market have been introduced to public services through the 'quasi market' and that the market model is not helpful since 'its presence is already felt in the models of managerialism and consumerism' (2004, p122). The key to 'quasi markets' is consumer choice. For some choice is central to consumerism (eg Clarke *et al* 2005, Clarke and Newman 1997). Vincent-Jones argues that the concept of 'voice' has been introduced as a key feature of public services, even where 'choice' may be available through quasi-markets, because 'vulnerable and disadvantaged citizens' may find the exercise of choice difficult (2005, p899). Consumerism has also been described as giving the welfare 'consumer' a 'voice' in the process, recognising that the classic alternative of 'exit' (which would be available in a true market) is not usually available to users of public services (Clarke 2005 after Hirschman 1970).

While there are different ways in which 'voice' can be understood as being incorporated into community care, including collective voice (Barnes 1999, Simmons and Birchall 2005) and participation in decision making processes, the complaints procedure is potentially a useful mechanism for voice. Adler argues that consumerism is mainly about voice and 'active participation' in decision making processes (2003, p344). Mulcahy and Allsop (1997) do not talk about a 'consumerist' model but about a 'grass roots' model which seems similar in that it emphasises participation and the needs of users. Braye and Preston-Shoot (1995) argue that community care has a consumerist

element to it, in that policies stress choice and participation, but that the inherent power imbalance between local authorities and community care 'users' restricts the extent to which real participation can take place. Barnes and Walker (1996) argue that 'empowerment' can only exist where service users have legal rights to services and independent procedures for asserting these rights. Here they are using the term 'empowerment' in a legalistic way. They contrast this with 'consumerism', with its associated focus on 'choice', as something which is disempowering (Barnes and Walker 1996). Harris also argues that 'empowerment' can only occur when citizens have legally enforceable rights (Harris 2005).

Thus, although there is some dispute as to the meaning of consumerism, 'choice' and 'voice' appear to be strong elements and these are the aspects which are discussed below.

Choice

Perhaps the clearest examples in this study of people using the complaints procedure to exercise choice were those where the complainants were attempting to obtain direct payments so that they could have direct control over the services they received. There were three complaints about this: from Margaret Anderson, Joseph Kelly and Ian Preston. Although the complainants saw direct payments as part of the solution to the problems they experienced with service provision, their specific complaints were about the authority's refusal to set up direct payment arrangements (or administrative incompetence preventing the arrangement from working). In

this sense their complaints were either a legal challenge to the refusal or an attempt to exercise voice over the process.

As discussed below in the section considering legalistic models, Ian Preston saw his challenge in legal terms. He saw himself as ‘appealing’ a decision. Margaret Anderson, on the other hand, saw her dispute as battling vainly against an impossible and incompetent bureaucracy:

Well I said ‘can I speak to someone else’ they said ‘there’s no-one here’. So you get messed about initially on the phone. ‘Could you phone back?’ So you make at least five phone calls before you get to speak to someone, over several days because they could be out or and finally somebody says ‘oh so and so’s in charge of that area’. So you finally get one answer but then you have to make an appointment. So ‘when will that be?’ They don’t know. So they don’t know anything as far as I’m concerned at this point, they don’t know anything.

Joseph Kelly’s complaint concerned his unhappiness at the behaviour of his home care workers. He saw direct payments as the solution to this problem. If he could move to direct payments he would have control over who provided services and how they were provided:

They were too young. They were only young girls, about seventeen and they were telling me what to do, in my own home!

At the time of the interview, the direct payments had come through and Mr Kelly was using them to employ home care workers through an agency. He was much more satisfied with this arrangement:

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Researcher So are you happier now that you've got the direct payments?

Joseph Kelly Yes.

Researcher Why is that?

Joseph Kelly I'm in control.

Researcher: You're in control? So what would happen now if you weren't happy with your workers?

Joseph Kelly I'd speak to the manager of the company. It's a different relationship. It's easier to sit down and have a chat and see what is wrong.

Although Joseph Kelly's complaint was primarily about having control over his services he was also concerned about the fact that the services he had been receiving (and was trying to change) were a 'waste of taxpayers' money':

Researcher So your complaint really was about attitudes as much as anything else?

Joseph Kelly Yes.

Researcher Or was it more than that?

Joseph Kelly It was a waste of money. That they were wasting money on a care agency who wasn't doing the job. That's taxpayers' money at the end of the day.

In this sense his complaint also had a managerial element to it. The other complaints which had elements of choice in them concerned people who wanted services to be provided in a particular way, while the social work department was insisting on doing it another way. An example of these included Anne Gray's attempts to change the way that services were provided for her relative. Her complaint was about the fact that the arrangement whereby workers would come to the house and take him out to various activities had been withdrawn and replaced by a centre-based service. The centre-based service was unreliable because of staffing shortages. She wanted to have choice (for herself and her relative):

[describing the service that had been withdrawn] Everybody that was with them got an independence they never had before. They were able to make their own choices instead of going somewhere and being told 'Do that, do that'. They had their own choice and you've no idea the difference that made to these young people. All of a sudden they were in charge of their lives.

She realised that the problem was inherently one of resources but she also felt that a bit of common sense applied to the problem would improve things.

[describing services provided by a voluntary organisation] They are not overstaffed but they manage so I don't know, somewhere along the line, somebody should be looking at that because if [voluntary organisation] can do it, and they don't have a massive amount of staff, they're a wee bit pushed, but they manage and they never let their clients down and we can't say that about social work.

Here Anne Gray was showing a managerialist aspect to her complaint: she expected her action to have some effect on the social work department so that it might improve things in the future, both for her family and for other people. Her concern with improving things for other people was an important aspect of what she did:

Yes. Because anything I've done in the past has not just benefited my [relative], it's benefited other people as well. It's not just him, it's the rest of them as well because everything that affects him affects them too. So if they get something sorted out because of that complaint, that's excellent, that's what it's about.

Angela MacDonald's story was also about having choice about the way that services were provided. Her complaint concerned an attempt to have transport provided for her relative to enable her to participate in her preferred daily activity. The social work department initially agreed to this but then changed its mind and offered a different service instead:

To me this was incomprehensible because if she went to the resource centre she would be taking up a place, the resource centre could have provided the transport. Everybody agreed she should be at [place], but because there wasn't a pot to take the money from, she wasn't going to be allowed to go. So it wasn't a question of what was right for [my relative]. It was a question of what was right for their funding.

This view of the social work department providing services to suit itself rather than the service users was echoed in one of the focus group discussions:

Mary Marsh I complained to social work about lack of services to keep somebody in their own home. But they weren't too happy about that either. They said 'But we've offered day care' and I said 'My [relative] doesn't want to go out.' She tried it - don't get me wrong. I went with her and she tried it and that was when she could voice her opinion. She did try it. But they weren't chuffed.

Marion Wallace That's because you have to fit into that little - the round peg into the square hole kind of thing.

FG members [agreement] Yes if you don't fit
(Focus group 3)

These focus group members were suggesting that service users (or carers) ought to have more say in the way that services were provided.

Voice

In the cases described above the complainants were clearly using the complaints procedure in order to (attempt to) exercise choice in the way that services were provided. Other complainants were not so explicitly concerned with choice but were using the complaints procedure to exercise 'voice'. They wanted their voices to be heard so that services could be improved either for themselves or for other people. Most of these complainants did not seem to see their complaint as having a 'legal' element but they did want to make sure that they were heard. Many people talked in terms of a mystifying

bureaucracy whose decisions were opaque, which followed rules to suit itself and which was generally incompetent. They wanted to inject some common sense into the way that things were done.

Not all complainants had such a negative view of the social work department. Some were keen to explain that they were normally very happy with the service they received but they wanted to make sure that their complaint about a particular one-off problem was heard. Joan Pearson typified this attitude. She was very happy with her home care service but she felt that sometimes workers were too bound by rules and, again, should use a little common sense:

I've got nothing but praise for social services. I just can't get over it. I really can't get over it. I think it's absolutely wonderful. But on such an occasion as that, when a client is in a pretty bad state, physically and emotionally, a carer should know in a sense, in the most simple way, how to handle it. So if a client says 'Would you please phone my daughter?', they should do such a thing even though it's not within their remit. They should learn to have a bit of common sense.

Being listened to was, for many people, an important function of the complaints procedure. Several people said that when they finally got through to someone in the complaints department it was the first time that someone had listened to their problem. The problem was not necessarily resolved at this point, but it was important to them that somebody had listened:

The chap that I spoke to was very helpful at the time and he said that he would deal with it. I thought he wasn't going to let it go. He was genuinely listening to what I said.

(Janet Usher)

Dorothy Henderson also agreed that being listened to was important, although she was still unhappy at the outcome of her complaint:

[The complaints officer] listened. But throughout the whole thing the people that we were involved with never listened.

Helen Fisher described how she was not being listened to and that this prompted her to complain:

Then this was ongoing and nobody was doing a thing, nobody was listening. So I thought 'That's it then' and then I complained.

In some cases the complainant was still unhappy because they felt that they still hadn't been listened to:

I can understand that they are going to support a member of their team and her action. I can understand that totally. But that doesn't mean to say that that's right because they haven't at all listened to me.
(Fiona Clarke)

Members of focus group four were cynical about complaining because they felt that they would not be listened to:

Catherine Scott [discussing a recent problem concerning health and social work] The nurses blame each other or they blame social work.

Researcher So you don't think there'd been any point?

Catherine Scott There's no point.

Gillian Nisbet I think sometimes you can complain and you can complain. They take the letter and they just put it in the bucket.

Susan Green They don't take you seriously enough. I have got letter after letter from the housing and they just don't take you seriously.

Being listened to is an important part of complaining but it is not in itself enough. People want to be listened to and they want action as a result, whether that is a changed decision, an apology or a reassurance that the problem will not arise again. In this sense 'voice' is clearly important but it is not very helpful if it does not lead to action. Few complainants talked in explicit consumerist terms about their problems, although Alan Wood, who

worked in public services himself, did use some of the language of consumerism:

I think a lot of public bodies still operate in a kind of mindset that is decades old. I still deal with people who have been with the council for years and years and still think 'that's the way we do it' and they still have that council mindset. ... In other words although you're in a council environment you have to take on a customer based attitude. And that's not only for my [relative], it's for my own clients. I think there's a real lack in the council environment that they don't see the clients as customers.

Mary Nicholson also talked about needing a complaints procedure in the same way as you would expect in a shop:

You need to be able to say, just like in a shop, you need to be able to speak to the manager and have someone who's in the habit of fielding complaints.

In one of the focus groups, however, a contrast was made between the kind of thing you could complain about in an ordinary consumer transaction and the fact that social care services were more personal and so more difficult to complain about:

Mary Kennedy It's much easier to complain about something that's not personal. You might complain to a business place or something but if there's somebody connected - maybe coming into you ...

Facilitator So you don't think of it as a business arrangement?

FG members No.

(Focus group 1)

These examples suggest that, despite the critics of consumerism in public services, there is some desire for complaints procedures to operate in a consumerist way, providing choice or voice for service users. However, the managerial purpose of learning from complaints is equally important for some complainants.

Social work staff seemed to see the complaints procedure as having a consumerist function, in the sense of allowing people to have voice about their services:

I think its purpose is to allow service users to feed back what they think about services, because we do occasionally get letters saying 'thank you very much, you're doing a cracking job there', they're kind of few and far between but they are there. [...] So from my point of view, I think it's about feeding back what kind of service they think they've got and whether they've been treated unfairly in the process.

(Social work manager 2, Duncairn)

I think one of the things is about transparency. I think it's partly to do with us ensuring that a) we do our best to deal with people to the best of our ability with courtesy and respect and all the rest of it; and b) giving people a port of call if they feel they haven't been dealt with that way. [...] It's very important that people have the opportunity to formally record that they are not happy with what we are doing.

(Social work manager 3, Duncairn)

The complaints officer in Duncairn, talking about how the system could be improved, talked in terms of having a council-wide 'customer relations' system, specifically rejecting the idea of an over-bureaucratic complaints procedure:

I'm quite hopeful, for the reason that there would be a single customer relations officer for the council and, secondly the focus would be very clearly on the customer and the resolution of complaints rather than the information systems and recording systems.

(Complaints officer, Duncairn)

This suggests a consumerist approach to complaints, rather than a managerial one, which would rely on information systems and recording so that information could be passed on to managers.

Managerial model

Along with the consumerist model, a managerial model is also associated with using internal complaints procedures as the primary mechanism of redress. The focus however is on using information from complaints to improve services and increase efficiency (Mulcahy and Allsop 1997). The purpose of the complaints system is primarily to provide feedback to management. For this reason it is be important that the system is internal and not independent.

The discussion in chapter five on ‘what the complainant wants’ shows that around a third of complainants regarded their complaint as being partly to ‘prevent the same thing happening again’. With some complainants this was the main reason for their complaint while with others it was secondary or equal to their main reason. For these complainants it was important that management should learn lessons from their complaint. Their confidence in whether this would happen varied. Claire Elliot saw her complaint in these terms:

If something needs sorted then I’ll do it. It’s not just for me - there’s other people out there in the same position as I was in - so it’s for other people out there.

Sandra Hunter also talked about the social work department learning from complaints. Interestingly she talked about service users having a ‘voice’ but in the context of improving services for others as much as for herself:

If they had a list of all the complaints they could see what the problems were. I suppose social work is all one big department. I think if they knew that we’ve got a voice now they could see where all the complaints are coming from and how they could maybe deal with them. Deal with things a wee bit quicker.

Dean (2002) describes some complaints systems as allowing the 'angry citizen' to 'expose the shortcomings of the state' (p179).

Although the individual complainants hoped that their complaints would make the social work management change things in the future, this optimism was much less clear in the focus group discussions:

Researcher Quite a lot of the things you've talked about are not so much individual problems but ones which apply to a lot of people.

George McIntosh They're general

Researcher Do you think if you made a complaint or said something about it that that could be helping other people as well, or do you think it's treated as a one off?

FG members A one off, yes.

Mary Marsh I think unfortunately it is .

FG members Yes, a one off, yes.

(Focus group 3)

The complaints officers were also sceptical about the ability of the complaints procedure to provide management information. They believed that it *ought* to, but recognised that this did not really work in practice:

I think in an ideal [world] it has a role in terms of feeding that information about what needs to be done in our services. ... I try, and you'll see from the annual report, to produce a detailed report, highlighting the issues that have come out of complaints and that goes to the committee in the hope that that will force the issues, bring them to political and public attention if you like because it is published. Again I think we're lacking in explicit mechanisms to sit down as managers round a table and say 'Right these are the complaints we've been getting and these are the complaints that highlight deficiencies in services, what are we going to do about making sure this doesn't happen again?'

(Complaints officer, Duncairn)

Social work managers in Duncairn were more optimistic:

Researcher As a manager, do you see it having a role in giving you a picture of what the problems might be?

Social Work Manager 2 Oh yes, very definitely. I know very clearly where the pressures are on the team.

Researcher Can you ever point to a time where you can say that a pattern of complaints has caused you to change the way you do something, or report something higher up?

Social Work Manager 2 Yes. I have referred something just now because I felt there were a lot of complaints coming in about the occupational therapy section so their manager is looking at all the processes so we can see where all the pressures are and what's working and what's not working [...] So my expectation is that somewhere along the line I'll be saying 'Don't do that, do this'.

Social work manager three, while seeing the complaints procedure partly in consumerist terms, also thought that it ought to have a managerial role:

The appropriate level of management, whether it's about me and the way I run the team or whether it's to me about how someone else is running a bit of the world, it's necessary and appropriate and essential that we get the opportunity to address the practice issues which are not what they should be.

(Social work manager 3, Duncairn)

Social work manager four talked about 'quality control':

I also see it as a quality control type of mechanism. Although our service users across the board are probably ... I don't think that they are natural complainers at all. I don't think they are predisposed to criticising the system. So from that point of view it is a very limited quality control mechanism but I have picked up things as a consequence of complaints, either in terms of process, occasionally in terms of staff, usually how somebody has said something but also in terms of service gaps. I would usually expect to be familiar with that if it is an issue but occasionally something will come up which I hadn't been aware of which allows me to address something, either in-house or through the organisation.

Social work manager one saw the complaints procedure as having an overt role of allowing people to challenge decisions but thought that it was very rarely used in this way. It had a by-product of providing some management information:

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I'm not sure they set up the complaints procedure to give me management information though but it is a very useful by-product.

Social work manager one went on to say that this was not a particularly good way of getting this kind of information because of the very small number of complaints and that 'pro-active' research into people's needs and difficulties would be much more effective.

The complaints officer in Kinraddie echoed this view. His view was that complaints were a 'drop in the bucket' compared with the numbers of people receiving services from social work who did not complain:

There's also the danger as well - a thousand people get a service, two of them complain about it, so we change the service to accommodate the two people who complained. Now that's OK if those two people were representative ones who had the courage to come out and complain but, on the other hand, the other 998 might be entirely happy with the service and not like the change that is made to accommodate the two people who complained. So my strong feeling is that if we want to find out what our service users think of our service, we should ask them. The complaints are a different thing - they are about the individual who is complaining.

There appeared to be a strong division in views between the complainants and the managers of the complaints procedure as to its ability to be used for management information. Complainants felt that it should be used in this way, while social work staff were more sceptical about this possibility. Research in the field of health complaints shows that, despite recommendations by government bodies that complaints information should be used to improve services, complaints tend to be seen as 'discrete incidents' and not as potential management information (Mulcahy 2003, 135). My own research on local authorities' annual reports on social work complaints shows that only a third of those producing a report included any information

on what action they were taking to improve services as a result of complaints, indicating that learning lessons was not the main focus (Gulland 2003).

Legal model

Legalistic models of justice stress the values of natural justice: independence, rights and conforming to legal rules (Adler 2003 and 2006, Mashaw 1983, Mulcahy and Allsop 1997). These models contrast with managerial models in their focus on individual redress rather than on providing management information. The community care complaints procedure is not, of course, legalistic in that it is not independent and bears instead the characteristics of consumerism and managerialism. However it is the first step in a process which would enable complainants to take court action via judicial review and so is, in a sense, part of this legal process. My starting point for this research (see chapter one) also suggested that some people might attempt to use the complaints procedure ‘like an appeal’ in the absence of any other more legalistic appeals procedure.

Independence is a key value in a legalistic system and was an issue that came up in many interviews. Ian Grant typified this position:

I think there should be somebody appointed who's not beholden to social work in any shape or form or the National Health Service for that matter. They could be employed by the council but in a position where they are not subject to any threats because their job is iron-cast. Their job is to defend people against the state if you like. Either that or we have to start an outside body which would get recognised. I don't know of anybody who will fight for people's rights when the home help doesn't do her job.

People talked about the lack of independence in the system being a problem or mentioned it when they talked about how the system could be improved in the future but they were not necessarily thinking about this in legalistic terms. Their concern seemed to be more like the ‘whistle blowing’ function that might be found in a professional model, see the discussion below.

Another aspect of a legalistic model of justice concerns adherence to legal rules and following legal procedures. A small number of complainants appeared to see themselves as having a ‘legal’ argument with the council. The council had made a decision which they disagreed with and they wished to challenge this. Some of them talked in terms of ‘appealing’ against the decision. These legal disputes fall into two categories: those which were about trying to get services and those which concerned financial disputes.

Ian Preston’s story was about a legalistic fight with the social work department over his right to direct payments. The department was saying one thing and he was saying something else. The department argued that his need for personal care did not amount to enough hours a week to qualify for direct payments. He ‘appealed’ against the decision:

A lot of people would just think ‘That’s it, they’ve made a decision you can’t do anything about it’. They don’t know that they can appeal. I told them right away that I was going to appeal and I did.

However, Mr Preston was not consistent in seeing his complaint entirely in legal terms. He also talked about his problem as having arisen as a result of administrative error in that it was caused by the local authority ‘losing’ his files.

Andrew Robertson also talked in legalistic terms about his complaint. His dispute concerned a request for equipment and adaptations which had been refused. His first disagreement with the council concerned getting a decision in writing. The significance of getting decisions in writing is discussed further below. When he eventually got a letter turning him down for the equipment he had asked for, he treated it as a 'legal decision' which he could appeal against. His view was that he had a right to social welfare, based on his lifetime of contributing to the system:

Having paid my national insurance contributions from day one - with my age - I started with Mr Beveridge, right back in 1945 so I thought I wasn't asking for anything that I shouldn't be asking for.

Legalistic views of the complaints procedure also appeared where the complaint was about money. The clearest of these were those concerned with decisions about financial assessments for residential care. The two people whose complaints concerned assessments of notional capital saw their complaints in terms of challenging a 'legal' decision. They talked about 'regulations' and having their 'case' heard. William Edgar was aware that decisions about notional capital are based on legal rules but believed they could be interpreted in different ways. He disputed the interpretation made by the council:

As far as we [my family] were concerned we were following the regulations. It's a matter of interpretation.

Julie Douglas, whose dispute was in some ways similar to William Edgar's, described the problem in legal terms, although she didn't have any faith in it making any difference. One of her reasons for lack of faith in the system was its lack of independence.

Thomas Beattie also saw his complaint about a bill for residential care in legalistic terms. He talked of taking his case to a 'tribunal':

There was an effort to cover the whole thing up in the hope that I would pay up and that would get rid of the whole thing. So of course I just refused and said they would have to go right the way through to a tribunal.

However he was not concerned about the decision being formally overturned. The final outcome of his case was that the council agreed to 'write off the debt', without acknowledging that he was in the right:

And then I got a letter back saying that 'in view of the circumstances' they were going to write off the debt. So I never had to pay.

Mr Beattie was not bothered about this, so long as he was not being pursued for the debt and so long as the council learned something from his experience:

I think that it will have made them much more careful. At least I would hope that it would make them much more careful about anything similar.

This shows that, although Mr Beattie saw his complaint in legalistic terms, he also had a managerialist purpose in complaining. He hoped the council would learn from his case and not treat other people in the same way. This desire that the council should learn from complaints was a common theme amongst individual complainants. It suggests that people have a managerial approach to the complaints system even when the complaint is also framed in legal terms. When Susan James finally got a letter saying that her complaint regarding a delay in fitting adaptations to her house had been 'upheld', in other words, a legalistic outcome, she was not satisfied with this. The adaptations had been carried out but she wanted an explanation for what had gone wrong and what the council was going to do about it in the future:

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So my complaint was upheld but I should have had a report from the social work department on my complaint but instead it was just a sentence in a letter to say that my complaint had been upheld. I should have a report on what is happening about it and what they were doing.

Ms James had made her initial complaint because she wanted a service to be provided but, partly as a result of the time it had taken for her complaint to be resolved, she also wanted to know how this kind of problem was going to be prevented in future. This reflects a more managerial purpose, showing that purposes can be combined.

As well as the people who talked about their complaints in legalistic terms, there were also those who used the language of 'rights' to talk about their complaints. They were not so much disputing a social work department decision as asserting their right to complain.

Sandra Hunter was very unclear about how the social work department operated, who made decisions or who was responsible for different services. They always told her that there was not enough money. Although she was still very uncertain about what services her relative might have a right to, she had come to recognise that she had a 'right' to complain if she was not happy. Others talked about rights but were also concerned that standing up for their rights might be seen as difficult or problematic.

There was little reference to rights in the focus group discussions. Most of these discussions centred around the individual nature of problems they had experienced or the fact that many people experience the same problems. People felt that they would not complain about problems which were very

individual because there was no point. On the other hand, when they felt that problems were likely to affect many people they also thought the complaints procedure was not an appropriate route.

Some members of focus groups found it difficult to think of a problem that it *would* be appropriate to complain about. This might be a reflection of the fact that none of the focus group members talked about having a problem with finances or challenging decisions specifically. Their concerns were more to do with not knowing how decisions were made, cuts in services, or problems with individual staff members. There was a strong sense in all four groups that people did not have enough information about the services they might expect to receive and that this lack of knowledge limited their ability to complain. They appeared to see the social work department as a mysterious bureaucracy which made arbitrary decisions and to feel that there was no point in making complaints.

Although some of the individual complainants talked about complaining in terms of legal rights, not all did and even those who did sometimes showed concern that standing up for their rights might be seen as being too uppity. They also stressed that people needed to be knowledgeable about how things work in order to exercise their rights.

It might have been expected that advocates would have a more legalistic approach to complaining than service users in general. However the advocates I spoke to were worried about the idea of 'complaining' and were keen to show that complaining was something they would do only as a last

resort. Advocates M and N both talked in terms of using rights in these extreme circumstances:

Well, it is part of the role, letting people know what their rights are. We're not dead militant about these things. But we would go and research what their rights are, if we don't know. We wouldn't use it right away. We wouldn't go right in there and say 'These are your rights'. We might have to use [this argument] further down the line if we don't feel we're getting anywhere.

(Advocate N, Duncairn)

This suggests that, while these advocates recognised that their clients did have legal rights, they believed that local authorities would not appreciate being challenged in these terms. This view is supported by Mandelstam (2005) who argues that 'local authority staff can sometimes be quite disconcerted when a service user or representative 'waves' legislation or guidance from the Department of Health in front of them' and that 'resolving disputes informally [is] often the preferable option' (p77). This is confirmed by Halliday in his research with housing officials: 'what is significant here is that decision makers, in trusting their professional intuition and in reacting out of a siege mentality, reject the normative authority of law' (Halliday 2004, p60). Braye and Preston-Shoot, in their research on student social workers' attitudes, confirm that this is also likely to be the case in social work. Student social workers saw the law as 'not social work' and as something to be feared if cases went to court (2006, p20).

Social work manager four talked in terms of some people, particularly advocates, 'knowing the system', in a way that implied that they were not the same as genuine complainants:

With the formal complaint process there obviously is a formal appeal process but there are very few people who actually take it up. Those that do

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have probably already identified that that's where we're going. We have some serial complainers, or advocates, who are looking to take it as far as they can, for a range of reasons.

(Social work manager 4, Duncairn)

This reflects Cowan's observation that sometimes people are seen as 'knowledgeable agents' who are simply using (or abusing) the system dishonestly to gain benefits or services to which they are not entitled (2004, p929).

Janet Usher had the impression from challenging the staff in her local social work office that they had reacted badly when she showed that she 'knew the jargon' through her previous experience of social work:

I think what happened was when I started asking to speak to the ADO or the deputy in charge - these are terms that not all the public know that they use in social work - it's social work jargon. I think when I started to talk like that she got a bit annoyed. I think that's when she started to get a bit upset and she probably thought I knew what I was talking about.

Angela MacDonald summarised her view of the problem by saying that people were not expected to think in terms of having rights to services:

You're supposed to feel grateful for these things and that you don't have a right to these things for your [relative].

Advocate C, unlike advocate N, was not concerned about being perceived as 'dead militant' and talked about complaining almost entirely in terms of legal rights. He saw himself as being a 'legal expert' and believed that using the law was the most effective way of challenging the social work department:

Advocate C So there's little point in arguing with social work on the grounds that 'I am a deserving case'. They won't bend to that.

Researcher So what would they bend to?

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Advocate C The law. If someone's interpreting the law and saying to them 'That's what it says here. That's what you must do.'

This view was not typical of the advocates I spoke to but reflects a possible way of looking at complaints in legalistic terms.

Despite some of the advocates' concerns that social work staff would object to people using legalistic language, asserting people's rights *to complain* was a common theme amongst social work staff. The complaints officer in Duncairn saw her role primarily in terms of making sure that people's legal rights, in terms of the procedure, were upheld, showing some concern that others might not be so meticulous about this:

[I] ensure, hopefully, that I safeguard the client's rights to have the proper formal response when that is required, with information about rights of redress and their rights of appeal. [...] We try and catch letters that haven't informed people of their rights.
(Complaints officer, Duncairn)

When it came to discussing the complaints procedure the social work managers also stressed that people have a right to complain:

If people aren't happy, they have the right to get back in touch with me.
(Social work manager 2, Duncairn)

Social work manager three, however, associated procedural rights with 'bureaucracy', something which she felt should be discouraged:

Sometimes you find that once something becomes a formal complaint ... you get caught up in the bureaucracy of it.
(Social work manager 3, Duncairn)

Making a procedure more legalistic carries its own problems. As the studies discussed in chapter two show, people involved in much more legalistic areas of welfare appear to be equally uninformed about their rights to

challenge decisions. Some writers also suggest that the problem lies with the *over*-legalisation of the procedures. For example Cowan and Halliday, in their study of homelessness reviews, argue that letters full of legal jargon can be a barrier to people taking up their rights to redress and that verbal communications can be more effective in ensuring people understand their legal rights (2003, p205).

There was little evidence of this in this research, perhaps because decisions about community care services are not always put in writing anyway. However, Dorothy Henderson commented on the excessively legalistic language used after a meeting of the complaints review committee:

That was from the council, the legal wallah on the committee. Now it started again, the letters backwards and forwards. Some of the letters, I've never seen anything like it. It said 'the words in second paragraph' - that was the kind of letters we were getting, that sort of gobbledygook. I felt like saying 'We want this in plain English'.

On the whole complainants in this study were more likely to be bothered by *not* getting decisions or information in writing. They viewed the lack of a decision letter as a barrier to taking the issue up formally. Ewick and Silbey discuss the importance of the written word in people's understanding of 'legal' matters, where written material is seen as 'evidence' in a way that verbal exchanges are not (1998, p101). Andrew Robertson made this explicit in his description of his dispute with the social work department over equipment and adaptations:

This girl said that [my relative] didn't qualify for anything. So I said 'Will you please put that in writing?' [she said] 'Oh no [name] council doesn't put assessment reports in writing'. I said 'Come on I've worked with the [organisation] - everything we did we had to write down and record. That was standard procedure'. She said 'Oh no, we don't do that. I've notified you'. I said 'Sorry, I want it in writing'.

His persistence paid off and once he got the written decision he felt able to pursue his complaint formally.

Elizabeth Ross had also felt unable to pursue her complaint until she got a decision about her request for adaptations in writing. In her case the social work department claimed that it had sent a decision letter but she had not received it:

So the upshot was that I got an apology for the delay and they said they'd sent a letter saying that the thing was turned down. Well I never got that letter and the post doesn't really go missing. [...] I don't think they ever sent it. I think they had it typed quickly and stuck on to the back of the letter, to be quite honest. Because I never lost any of the other ones and they didn't lose mine.

The lack of documentation of her discussions with the social worker was also at the root of Fiona Clarke's dispute:

It's not in writing, it's all verbal. [...] I attended all these meetings and not once was a meeting minuted. I never received any feedback - it was all verbal.

There was a discussion in focus group two about the problem with not getting information in writing about changes to their services:

Harold Webster Well if you think about it, nobody ever discusses with you if changes are going to be made.

Facilitator They just tell you?

Harold Webster You get a directive and that's it.

Doreen Low You need a letter telling you.

Harold Webster You don't even get a letter, not in my case.

Doreen Low No

Researcher Do you think it would make a difference if you got a letter?

Cathy McLaren Well if you got a letter you would have proof of what is actually being done.

Harold Webster Yes.

Researcher So you just get told something?

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Cathy McLaren Yes, the carers just come and say 'By the way it's changed now'.

Harold Webster Well we are grown people. We don't go to school any more. They shouldn't just tell us.

This discussion shows that the focus group members wanted information in writing so that they could 'have proof' that what the home carers were telling them was true but they also felt that it would enable them to participate in the decision. The need for something in writing illustrated a legalistic approach but also a consumerist approach.

Another aspect of legalism is that it would require a finding as to whether the complaint was justified or not: was the complaint upheld or not upheld? Chapter six shows that this was not always clear to complainants, although local authorities are often keen to publish this information about the complaints they have received (Gulland 2003). The Duncairn database also records whether each complaint is upheld or not. The reason for this may be defensive. The local authorities may wish to show that, although they have received complaints about services and are happy to receive more, many complaints are unjustified and the authorities are generally providing a good service. On the other hand Mulcahy notes that information about complaints is not of much use as a management tool either unless the information also shows whether or not the complaints were valid (2003, p131).

The discussion above shows that some complainants appeared to see their complaints in legalistic terms but this tended to be in connection with certain types of complaint, where there was a challenge to a 'decision' of some kind. Not all complaints are of this type and other types of complaints did not

seem to be described in a legalistic way, except insofar as complainants stressed their 'right' to complain.

Bureaucratic model

Bureaucratic models of justice have some similarities to legal models in the sense that they rely on rules and procedures. The main difference is that, instead of stressing independent redress procedures, they rely on internal 'reviews' of decisions and are concerned with the efficient running of the organisation, rather than with individual rights (Adler 2003 and 2006, Mashaw 1983, Allsop and Mulcahy 1997). Halliday argues that the bureaucratic model can also incorporate the managerial model since the latter provides a 'contemporary gloss' on Mashaw's bureaucratic one, where the main concerns are an efficient bureaucracy (Halliday 2004, p123). The bureaucratic model is distinguished from the managerial model in this discussion because it is characterised by a different model of redress: an internal review rather than a complaints procedure. Although both of these are internal mechanisms, the focus of the managerial model is on improving services while the bureaucratic review is concerned with making accurate decisions and ensuring that rules and procedures have been followed.

There did not appear to be many complainants who thought about their complaint in this way. Those who referred to rules and procedures usually had a greater stress on the need for independence and the legalistic values discussed above.

Jennifer King's dispute with the social work department about a bill for residential care could be described in bureaucratic terms. She had been sent a bill, which she disputed, for a period of respite care. Her complaint arose partly out of her frustration that the local authority appeared to be incompetent:

It was just so frustrating, getting these letters. You thought you'd sorted it out and it was just like a juggernaut. I must have had about four different demands.

Ms King's dispute was an administrative one but she also wanted to stress that the amount of money had been small and her motivation for complaining was managerial - to prevent the same thing happening again:

So the main reason I complained [was] because it's all right for me but what if it was an old lady with a husband gone into respite care or something and you're getting letters, threatening to take you to court or whatever.

There was one case where the complaint had led to a 'review' of a decision. Elizabeth Ross had been attempting to get equipment and adaptations carried out in her house. After some considerable correspondence backwards and forwards she established that a decision had been made to turn her down. Her complaint led to a reassessment, which found that she was entitled to the adaptations. However, Ms Ross was cynical about how the procedure had worked and thought that it was the fact that she had complained that had forced the social work department to change its mind:

Researcher What do you think had changed between the two assessments?

Elizabeth Ross Just the fact that I'd complained.

Researcher So it wasn't that your health had got any worse or that your situation had changed?

Elizabeth Ross No. I wouldn't say so. I was just as bad then as I am now.

Researcher So it was almost chance that somebody else thought you were entitled to it and the first person thought you weren't?

Elizabeth Ross I don't think it was chance. I think he was pushed into it because I had complained.

The point here is that she did not think her case had been treated like a bureaucratic review where her request had been measured against a set of rules and regulations. Ms Ross had the impression that the decision had been overturned to keep her happy and stop her causing trouble.

Professional model

Professional models of justice emphasise the expertise of professional groups (Adler 2003 and 2006, Mashaw 1983, Allsop and Mulchay 1997). Traditionally this emphasis would mean that 'user' perspectives were not important, except insofar as they informed the professional's judgement. Although much of the criticism of professionalism has concerned this lack of user involvement, Preston-Shoot *et al* (2001) argue that professional social work has always stressed 'participation and choice' as key values. Riddell *et al* (2000) also include 'participation' as an element of professionalism. The problem is that these professional values often come into conflict with organisational priorities and legal requirements and so are not always paramount in individual decision making (Preston-Shoot *et al* 2001, p8). Mulcahy's work on health complaints places a much clearer emphasis on professionalism. The emphasis on professional expertise has only recently been challenged in medical care, where legal, managerial and consumer models are beginning to have an impact (Mulcahy 2003).

Adler argues that the characteristic mode of redress in the professional model is either obtaining a second opinion from another professional or

making a complaint to a professional body (Adler 2006). Of course, not all of the complaints in this study were about ‘professional’ decisions, since many were as much about administrative problems or the behaviour of administrative staff. This means that we would not expect many people to talk about their disputes in terms of ‘professional’ values. None of the complainants talked about getting a second professional opinion.

Another aspect of professionalism concerns self-regulation by professional bodies. A complaints procedure which had a primarily professional function would be focused on the actions (and inactions) of the professionals involved, ensuring that professional values and competences were maintained. This would involve monitoring of professional behaviour by professional bodies or peer review by other professionals. The role of the ‘user’ would be to act as a ‘whistle blower’ and to provide evidence to those investigating instances of malpractice.

Chapter five shows that a desire for disciplinary action against staff was rare amongst complainants in this research. They accepted that mistakes may have been made and often talked about a general bureaucratic incompetence but this was not usually directed at individual professional staff. Where there were criticisms of individual staff, complainants usually wanted systems to be changed to prevent recurrences, or they wanted to have the particular member of staff removed from providing *their* care. Several people said that they ‘wouldn’t have her back in my house’ but they were not looking for the kind of disciplinary action which might be associated with a professional model of complaining.

Independence is a value that goes with professional models of complaints. Several people compared the complaints procedure to the police complaints procedure, arguing that there was no point in having internal investigations of problems:

It's just like the police investigating the police. That's the way I thought. It was just 'It's been dealt with' and that was it.

(Robert Donaldson)

Angela MacDonald pointed out that independence would be necessary if a complaint was about professional malpractice:

Off the top of my head, I think it would be more difficult for somebody who was complaining about something that had been done wrongly - the malpractice side of things - to take their complaint through the council rather than through a third party. It's like complaining about the police by going to the police. It's not something that you feel terribly comfortable with.

Ms MacDonald distinguished this kind of complaint from those which she saw as being about meeting needs:

There's two types of complaint you can make: there's the kind of complaint where you think things have been done inappropriately or badly or illegally, that kind of complaint and there's my kind of complaint, where you feel your needs aren't being met. I'm not sure these two kinds of complaint are the same when you're asking of the service things that they've decided they're not going to give you. It's not quite the same as malpractice or whatever, that kind of thing.

The carers' focus group did talk about issues involving professional misconduct in relation to neglect and abuse. One member described a time when she had made a complaint about the alleged abuse of her relative in a residential care home. In this case it was a private home and the complaint was made to the Care Commission. The result of her complaint was that the manager resigned and new staff were employed in the home.

There was a negative view of professionalism in this focus group. Members felt that complaining would be pointless because they felt that professionals would 'close ranks' if they did:

George McIntosh [discussing a problem with the health service] You know if you've got a complaint, whether it's serious or very serious, it's obvious to me down the years, the medical professionals close ranks. You'll never get one doctor disagreeing with another doctor's comments, never.

FG members [agreement]

Researcher Do you think social work are the same?

George McIntosh Just the same.

Marion Wallace I think they close ranks. I think it's all professionals that do that.

(Focus group 3)

There was not much evidence that complainants in this research were thinking in terms of a professional model of redress, except to the extent that some complainants thought that the system could be improved if more independence was introduced because 'professionals close ranks':

They need to have something outside the organisation, to investigate it. It's all in-house as it is.

(Robert Donaldson)

An independent body that is non-political, definitely not political, and it should be able to independently address problems before it goes to the Ombudsman. I don't see that self-examining processes are any use.

(Linda Adams)

Anne Gray's interest in independence was not so much to do with the legalistic or professional aspects of the procedure as to make people more likely to use it:

An independent body would help. People would go to an independent body because they would feel that they wouldn't be under any comeback. They would probably talk a lot more freely than they would talk to social work.

Professionalism did not appear as a strong feature in complainants' accounts of making complaints. Neither did it appear in the views of those running the procedure, except insofar as social work professional values incorporate an element of consumerism through 'user involvement' (Braye and Preston-Shoot 2006).

Conclusion

It is clear that the act of complaining means different things to different people and that this is partly determined by what they are complaining about. It is not a straightforward case of grouping complainants or types of complaint according to different models, since there is considerable overlap between them and people's views are not always consistent. However, some clear themes can be found. Some people thought of their complaints in 'legal' terms, as appeals against decisions. This was particularly clear where the complaint was about a financial matter but also in some other cases where the complainants saw themselves as challenging a decision about the provision of services.

Another group of people saw their complaints in more consumerist terms, as a way of making their 'voice' heard in getting the local authority to see reason. A third group of complaints were managerial in the sense that they were, at least in part, attempts to get the local authority to improve services for others by providing information to management. In a small number of cases the complaint was challenging the professional behaviour of particular

members of staff. There was little evidence of a bureaucratic model where the complainant was asking for an administrative review of a decision.

Those who managed the complaints procedure appeared to see it mainly in consumerist terms. Although they talked of people's rights to use the procedure and in legalistic terms about how the procedure should operate, their focus was mainly on ensuring that the complainant's voice was heard rather than on enforcing legal rights. In contrast to the complainants, the staff running the procedure did not see it as a very effective managerial tool. Their doubts about the usefulness of it as a managerial tool came from two opposing views of the value of complaints information: on the one hand complaints were too few in number to be significant as management information; while on the other hand, if complaints were representative of a more general problem, they believed that the managers 'knew about it anyway'. Some of the social work managers said that they did use complaints information to inform their role as managers but they tended to see this as a helpful by-product of the complaints procedure rather than its main purpose. This disjunction between the views of complainants, who expect their complaints to be fed into management decision making and staff, who do not, creates problems for the effectiveness of the procedure.

The word 'complaining' itself carries connotations which some people see as negative (this is discussed in chapter eight), although others perceive it in more assertive terms: if you are sufficiently angry about something, it is right to complain. The different ways in which people perceive the act of complaining are bound to affect their likelihood of making a complaint in the

first place and the extent to which they are satisfied with the process. The differences in perceptions between complainants and staff as to the purpose of the procedure may exacerbate people's sense of injustice.

Given that the complaints procedure means different things to different people, it is worth considering how it could be changed to reflect these perspectives. Returning to the models in figure 9a, which outlined the purposes and attributes of different redress mechanisms, it appears that the current complaints procedure comes closest to the consumerist model, with its reliance on internal mechanisms and an emphasis on users' views. This is to be expected, given that the procedure is derived from the Citizen's Charter initiatives of the 1990s. However, it does not wholly match this ideal. The purpose is not very clear to complainants and there appears to be an emphasis on conflict rather than communication. Social work staff appear to take a rather defensive stance rather than welcoming complaints. The consumerist model also assumes that 'consumers' are willing users of services and does not take account of the power imbalance between service users and local authorities.

The evidence from this study suggests that the managerial model is not as well reflected in the complaints procedure as some complainants might hope. There would have to be a much greater emphasis on recording complaints and using complaints information to improve services for the complaints procedure to be useful as a management tool. For the managerial purpose to be highlighted there would also have to be much more emphasis

on providing feedback to complainants on the effects of their complaints than is currently the case.

The legal model is not very evident in the current procedure and for this model to have a higher prominence, there would have to be a much greater emphasis on legal rights, written information about decisions and independent reviews of complaints.

The implications that these models have for improving the complaints procedure are summarised in figure 9b below. The bureaucratic and professional models do not seem to apply particularly to complaints about community care and so I have not included these.

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MODEL OF JUSTICE	Purpose of redress mechanism	Attributes of redress mechanism	Implications for improving the community care complaints procedure
Consumerist	To provide satisfaction to the consumer. To enable the consumer's 'voice' to be heard.	Not independent. Close to service provision. Focus on the users' views.	<ul style="list-style-type: none"> ▪ Make the purpose clearer to both service users and staff. ▪ Encourage more complaints as a means of increasing participation. ▪ Redesign the procedure to focus on mediation/communication rather than dispute resolution. ▪ Rename the procedure to emphasise participation rather than conflict.
Managerial	To provide managerial information to inform future policy, staff management and/or allocation of resources.	Not independent. Close to service provision. Careful record keeping to enable information to be passed on.	<ul style="list-style-type: none"> ▪ Make the purpose clearer to both service users and staff. ▪ Encourage more complaints as a means of improving management information. ▪ Improve record keeping to ensure information is fed back to the appropriate level of management. ▪ Provide information to complainants (and service users) on the effects of their complaints on wider service provision. ▪ Rename the procedure to emphasise feedback rather than conflict.
Legal	To ensure individual rights to services and/or to be treated fairly.	Independent. Legal values. Reliant on the law.	<ul style="list-style-type: none"> ▪ Provide better information about the legal basis for service provision and any local priorities. ▪ Provide initial decisions about services in writing. ▪ Introduce more independence into the procedure. ▪ Provide clear information regarding the outcomes of complaints and about the higher levels of the procedure. ▪ Rename the procedure to emphasise its role as an appeal mechanism.

Figure 9b Models of justice and their implications for improving the community care complaints procedure

The final column in figure 9b shows that the different models of justice emphasise quite different aspects of the procedure and that there is no simple answer to what needs to be done to improve it. The three different perspectives reflected by the different models are not always compatible and they rely on quite different understandings of the nature of the relationship between service users and local authorities. The consumerist and managerial models are closer together than the legal model although the consumerist model emphasises the individual's needs while the managerial model emphasises the concerns of the local authority. The legal model is concerned with individual rights and it is difficult to see how it can be given more prominence without also strengthening people's legal rights to services. The term 'complaints procedure' does not reflect any of the models very clearly and it is difficult to think of a term which could replace it which would reflect the procedure's competing purposes.

Other than changing its name, there may be changes which would improve the complaints procedure, from all three perspectives. The first is to improve provision of information about community care services and about local policies. This would enable people to understand what to expect in terms of services and standards. Secondly, clearer information about the complaints procedure itself would enable people to raise concerns when these standards were not met.

Chapter ten

Conclusion

In the title of this thesis I ask whether people making complaints about community care are 'complaining', 'appealing' or just trying to get a problem 'sorted out'. The introduction in chapter one and the research and policy background in chapter two set out the context for this question and raise the following research questions:

- What is a complaint?
- What do people complain about and can complaints be usefully divided into those which are about local authority decisions and those which are about the way in which people are treated?
- What is the difference between an informal complaint and a formal complaint?
- What do people want from the complaints procedure?
- How effective is the complaints review committee?
- What stops people from using the complaints procedure or from following it through to the end?
- What does it *mean* to make a complaint? How does the word 'complaint' affect people's views of the process?
- How does a complaint differ from an 'appeal' or something that needs to be 'sorted out' and should we have different procedures for dealing with them?

This chapter returns to the research questions, considers the effectiveness of the methodology used and proposes suggestions for future research.

Methodological issues

The methodology used to address these questions is described in chapter three. The use of case studies was intended to enable comparison between the two authorities and some reflection on the differences in the way they

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operated their complaints procedures. There are differences in the way each of the case study authorities operates its complaints procedure. However, these differences appear to be less important than the similarities in terms of complainants' experiences. The differences between the two authorities are discussed in chapter four. This research did not set out to evaluate the particular procedures operated by the two authorities but there is some indication that, in the authority with the more centralised procedure (Kinraddie), the complaints officer has more control over what happens to complaints, a closer relationship with complainants and more ability to advise complainants about their rights within the procedure. Complainants appear to appreciate the help that they receive from the complaints officer. However, even in Kinraddie, complaints do not always reach the complaints officer in the prescribed manner and much can go wrong before they get that far. The model in Duncairn, where complaints are devolved to social work managers, is more open to the individual practices of the local offices and it is possible that complaints are less likely to find their way into the 'formal procedure'. There are advantages and disadvantages to this: an advantage is that complaints are dealt with 'closer to the ground'; a disadvantage is that complainants may not feel that they receive the 'arm's length' advice that they receive in Kinraddie. The perception of 'being listened to' by a sympathetic complaints officer may be important in people's views about the effectiveness of the procedure. On the other hand, being listened to is not always enough and it may not matter too much whether a complaints officer is involved if the complainant is ultimately unhappy with the way their complaint has been dealt with. Overall my findings suggest that these differences in structure are less important than the similarities. Future

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research could focus more closely on different types of complaints procedures. The findings from this research cannot be generalised to complaints procedures across Scotland, since it is possible that people in other local authorities would have different experiences. However, using two case studies rather than one gives some confidence that the findings are not the result of one unusual set of circumstances in a particular local authority (Yin 2003, p53).

The main approach of the research was individual semi-structured interviews with people who had made complaints. Chapter three concludes that these interviews were an effective means of finding out what people thought about their experiences of using the complaints procedure and that it would have been difficult to find out people's views by using other means. However, having established the complexity of people's motives and experiences, it would be possible to design a survey which would enable some of the ideas generated by the interviews to be tested on a larger sample. It is difficult to assess how far the interviewees were 'representative' of either all complainants or all potential complainants, given that very little is known about the 'population' of either group. However, the interviewees did represent a fairly broad range of ages, types of impairment and social background (see chapter four). The biggest gaps were users of mental health services and people from minority ethnic backgrounds. Further targeted research could be conducted with these particular groups. There were also few complaints relating to residential care. The reason for this is probably that residential care is mainly provided by the private and voluntary sectors rather than by local authorities directly and so the Care Commission rather

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than the local authority complaints procedure would be the appropriate mechanism for complaints. There is scope for further research into the work of the Care Commission in dealing with complaints about the private and voluntary sectors and into the overlap between the two redress mechanisms.

It is possible that the complainants who chose to take part in this research were those who were least satisfied with the complaints procedure and that their views are not typical of complainants in general. However, they also covered a broad range of experiences and views, including many whose complaints were resolved and some who were happy with the way that their complaint had been dealt with.

The views of social work staff were gained through interviews with those responsible for running the complaints procedure and these proved to be useful in gaining a background understanding of how the procedure ought to operate. They also shed light on the interviewees' views of what the purpose of the procedure was and the advantages and disadvantages of informal and formal approaches. I did not seek the opinions of front-line decision makers or people against whom complaints were made. This was a deliberate omission because I wanted to keep a clear focus on the complainants (or potential complainants). Neither did I seek to obtain 'both sides of the story' about particular complaints (except where I was able to draw conclusions from the entries in the Duncairn database). There would have been particular problems with access and confidentiality which would have made it difficult to get the social work staff perspective on individual complaints. Useful research has been carried out in the field of health

complaints which makes a comparison between the views of patients and health professionals (Mulcahy 2003). If it was possible to overcome the access problems, similar research would provide a valuable perspective on community care complaints.

One of the original intentions of the research was to consider the views of people who had *not* made complaints, to establish more about the barriers to complaining. It proved to be difficult to recruit people solely on the basis of the fact that they hadn't made a complaint. The focus groups of 'service users' instead provided some context for the views of service users on issues raised by the individual interviews, including why some people do not make complaints. The data produced by the focus groups was limited by the methodology used but it does add some depth to the data obtained from the individual interviews, in most cases, confirming the findings. Data from both the individual interviews and the focus groups suggests that it is not possible to divide people into 'those who make complaints' and 'those who do not'. Nor is it easy to divide people into those who have made formal complaints and those who have made informal complaints. Whether someone makes a complaint or not and whether it is defined as formal or informal, depends on a range of matters, including what the problem is about and whether what the complainant does about it is recognised as a 'complaint' by either the complainant or the local authority.

Research Questions

Defining complaints and the difference between informal and formal complaints

This leads us on to the first research question, which concerned how to define a complaint. The preliminary research on local authorities' annual reports which I carried out as background to the thesis (Gulland 2003) had suggested that defining a 'complaint' was not going to be straightforward. Local authorities define complaints in different ways and have different mechanisms for recording and reporting on complaints. A key concern of the current research was to find out more about this. The findings discussed in chapter six suggest that there are considerable problems in defining complaints. These problems arise in part because there is a resistance, from local authorities and from service users, to call something a 'complaint' every time someone 'raises an issue' with the authority. It is obvious that people can make enquiries or even raise objections to the way that things are being done without necessarily 'making a complaint'. Something that starts out as an 'enquiry' can also turn into a 'complaint' if the service user is not happy with the way that their initial enquiry is handled. In many cases it will not matter whether these are recognised as complaints, if the problem is resolved and the 'complainant' is happy with the resolution. On the other hand, if people's attempts to sort out problems are not recognised as 'complaints' then it will be difficult for people to pursue their problems further using the complaints procedure. The move towards more consistent recording of all complaints which is required by the new social care complaints procedure in England and in the revised NHS complaints procedure in Scotland may help

to ensure that more grievances fall into the formal complaints procedure in these areas but a lot will still depend on how people at the front line interpret the issues that are raised by the public. Similar guidance on recording could be introduced into the complaints procedure for community care. There appears to be some reluctance from social work staff to make the system more bureaucratic and it is not in the public interest for too much time and money to be spent on paper shuffling exercises. However, there are also advantages to making sure that people's grievances are dealt with consistently.

Classifying complaints

The discussion in chapter five shows that it is possible to classify complaints into different types. Before attempting to classify complaints it is important to be clear about the purpose of doing so. Chapter five shows that there are various possible reasons for creating classification systems: to find out what goes wrong with public services in order to improve them; to understand how people attempt to resolve the problems they experience; or to establish what is the best way to deal with citizens' grievances. This thesis has not set out to address the first of these. Its focus is on how people deal with problems and on whether a complaints procedure is the best way to address them. Chapter five shows that a classification can be devised which divides problems into the different ways in which they affect people. This produces a five part classification:

- Unacceptable treatment
- Delays in providing services
- Service unavailable or deficient

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- Quality of services provided
- Financial issues.

Some problems cross categories and some will have elements of more than one (for example when someone is unhappy about not getting a service *and* about the way they were spoken to by a member of staff). The category of 'delay' does not seem to be particularly helpful in itself since, in this research, all 'delay' problems also led to a service being unavailable. However, it would be theoretically possible for someone to complain about a delay after the service had been provided and this seems to be something that happens in other areas, for example health. These five categories of problem were identified as those which could be established from the complainant's perspective. The other categories which were discussed in chapter five were shown to be more problematic because they were dependant on understanding what had caused the problem in the first place (ie a wrong decision, an administrative failure, a dispute about policy priorities). The category of financial problems stands separately from the others because it relates to a particular type of problem from the others. The possible resolution sought is also different and the Scottish Public Services Ombudsman has noted that financial assessments ought to have clear systems for review (Scottish Public Services Ombudsman 2006c, para 36).

Using these five categories allows us to see what people complain about and can usefully lead us to ask how people hope that their problem would be resolved. The five categories do not map neatly onto the redress that people seek but there are some broad patterns. On the whole, people who complain about a lack of service or a delay want the service to be provided, while

people who complain about the way they were treated want an apology. However, people's motives for complaining are more complex than this and a significant number also want to call the authority to account and to prevent the problem arising again. This complexity of motives is reflected in the different purposes that a complaints procedure has and is discussed below.

What happens to people's complaints?

Chapter six follows the history of the thirty six individual complainants to establish what happened to their complaints, whether they were upheld or not and whether the complainants were satisfied with the outcome. It concludes that it is not always possible to find out what happens to people's complaints, since they do not always follow a clear path, from the initial complaint, to a decision as to whether or not the complaint is upheld, to the resolution sought. Some problems seem to be resolved anyway, even when the complaint itself does not seem to have been dealt with, while others remain outstanding and the complainant does not know what happened to their complaint. Of course, some complaints *are* upheld, the complainant is notified of this decision and the problem is resolved. In these cases the procedure has been successful for the complainants. On the other hand, some people will remain dissatisfied in some way, whatever happens to their complaint and this is also important in assessing the effectiveness of the procedure. However, the people who are left wondering what happened have been failed by the procedure, especially if they are not clear about what they could do next to pursue their problem. It is possible that this 'not knowing what happened' is caused partly by some local authority staff

attempting to keep matters as informal as possible and not wanting to send out bureaucratic looking letters. The Scottish guidance and the local guidance in the two case study authorities is clear that such letters should be sent. It appears that this does not always happen. Lack of clarity about the status of a complaint is one of the barriers to taking a problem further and this is the focus of the next research question.

How effective is the complaints review committee?

An important concern of this research was whether the complaints review committee was an effective way of dealing with the final stages of complaints. Previous research on social work complaints and parallel research on health complaints suggested that there were many problems with having an in-house body as the final stage of the procedure and that it led to perceptions (whether well founded or not) of bias. It is difficult to assess the effectiveness of the complaints review committee in Scotland because there are so few hearings. This meant that it was quite difficult to say very much about complainants' experiences of the committees. However, evidence was also assembled from people who knew about the committees but had not used them and from people who could have taken their complaint to this level but were not aware of this right, as well as from advocates, complaints officers and social work staff. As with the earlier stages of the complaints procedure, many complainants are not aware of their position within the procedure, do not know what rights they have and take a variety of actions to pursue their complaints which do not fall within the procedure. While this can still lead to their problem being resolved, it can

also mean that they are denied their right to a hearing by a complaints review committee.

The overall impression gained from this data is that, although complaints review committees attempt to provide an ‘independent’ view of complaints, the perception amongst complainants is that they are not independent. This is partly the result of the fact that the local authority is responsible for organising them and, particularly, for providing legal advice to the committee members. There was some indication, although I am cautious in concluding this, that the local authority’s administration of the committees can lead to some people being prevented from reaching a hearing, either by a lack of information or by a, perhaps unintended, ‘blocking’ of some complaints. The recent debate in policy circles about the best way of dealing with higher reviews of complaints has focused on whether complaints should be heard by an internal body, such as the complaints review committee, by a separate independent body or whether they should go straight to the Ombudsman. (For a further discussion of these options, see Gulland 2006). The evidence from the current research suggests that there is considerable cynicism amongst community care service users about the ability of internal bodies to deal with their grievances and that there would be no advantage in introducing a new independent body, because of the problem of ‘appellant fatigue’. The ‘straight to the Ombudsman’ route appears to offer many advantages. Some of the complainants in this study talked about their knowledge and experience of the Ombudsman although generally there was a very low level of knowledge. However several people believed that an ‘independent body’ like the Ombudsman should be

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available to consider their complaints. Further research on people's experiences of complaints review committees (if enough people could be found) and on those who proceed to the Ombudsman would be enlightening.

What stops people from using the complaints procedure or from following it through to the end?

The evidence in chapters six and seven shows that people are often not aware that they are part of a complaints 'procedure' and, if they are, they are often unsure what the next stage in the procedure might be. There is also considerable ambiguity as to what constitutes a complaint in the first place. Given this, it is not surprising that many people are deterred from using the procedure. The barriers which complainants and focus group members talked about are similar to the barriers that are found in many other grievance procedures: practical barriers; lack of knowledge; lack of confidence; cynicism; the power imbalance between users and service providers; concern about the consequences of complaining. In this sense, the community care complaints procedure is not unusual. One of the differences between it and many more legalistic procedures is its informality. Complainants are not required to fill in complex forms or engage with courts or tribunals. They can simply make a phone call or write a letter to any social work department office, explaining what it is that troubles them. However, having an advocate who knows how the system works can help people to provide a clearer case for their complaint, concentrating on the rights that they have and on issues that can be resolved. At many points in this research, access to information, or lack of it, seemed to be important in determining

whether people made complaints or followed them through to the end. Many people told me that better leaflets would help and there certainly seemed to be a great deal that could be done by providing clear, accessible information on community care services and on people's right to complain if they are unhappy. However, information by itself is not enough. Advocacy can also make a difference in helping people to keep their complaints focused on issues that can be resolved and helping people to follow the procedure. However, advocacy services are thinly spread and underfunded; without serious investment, advocacy will not provide the solutions.

One barrier to the use of complaints procedures which may not be so important in other mechanisms is created by the meanings associated with 'complaining'. Complaining has negative connotations and this has a deterrent effect on some potential complainants. The actions needed to break down the barriers to complaining are similar to those necessary in other areas of citizen redress but the problem of 'not wanting to complain' has to be tackled in a different way. This partly relates to the purpose of the complaints procedure.

What does it mean to make a complaint?

The discussion above shows that much of our understanding of what happens (or not) in complaints procedures depends on what the purpose of the procedure is in the first place. Chapter nine considers this within the framework of different 'models of administrative justice' using the models devised by Mashaw (1983) and developed by Adler (2003 and 2006). It argues that making a complaint can be seen differently depending on the

dominant model. The qualities that each model commends will suggest how best to evaluate the procedure but, since each model favours different qualities, it is difficult to assess the effectiveness of the procedure.

Consumerism appears to be the central model for those running the complaints procedure. Their view was that the procedure is there to enable service users to have a voice in the running of their services and that improving the effectiveness of the procedure depends on making sure that people know that they have this right to have their voice heard and that they are listened to. The values inherent in this model are those which stress participation and shared decision making between users and service providers. It could be argued that consumerism and professionalism are quite close in terms of models of justice, as professionalism, certainly in social work, has always included an element of user involvement. However the two models are distinguished here because they would normally involve different redress mechanisms (consumerism favours complaints procedures while professionalism favours peer review or obtaining a second opinion). It could be argued that the social work professionals interviewed in this study were valuing a combined professional/consumerist model which emphasised user participation. The complainants, although they talked about being involved in decision making and the importance of having their voices heard, did not talk in terms that suggested they favoured a professional model. It is important to note that not all complaints concern professional judgements and so we would not expect professional models of grievance mechanisms to be applicable in all cases anyway.

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The professionals had less faith in the procedure as a managerial tool since they believed that there are too few complaints to produce useful management information about where services are going wrong. Many complainants, on the other hand, seemed to think that the complaints procedure should be used as a management tool and often their main motivation for complaining was to prevent the same thing happening again.

Some complainants seemed to see the complaints procedure in legal terms and would have valued the complaints procedure more highly if it had reflected 'legal' values such as information in writing, independence, adherence to rules and following formal procedures. The social work professionals, on the other hand, were wary of applying legalistic norms to dispute resolution, except insofar as stressing that people should have *rights* to make complaints.

Approaching the question of the effectiveness of the complaints procedure by using different models of justice helps us to understand why it is that different people expect to see different standards, values and procedural elements in it and why it is that some people remain dissatisfied when these expectations are not met. It does not, however, answer the question of how the procedure *should* operate or whether it would be better to replace it with a different mechanism.

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How does a complaint differ from an ‘appeal’ or something that needs to be ‘sorted out’ and should we have different procedures for dealing with them?

My initial interest in this research was sparked by a concern that there was no independent appeal process for people who were refused community care services. I wondered whether a complaints procedure was an appropriate way to deal with grievances which were effectively ‘appeals’ against decisions made by the local authority. This approach comes from the ‘legalistic’ tradition, where grievance mechanisms are primarily intended to ensure that decisions are made ‘correctly’ and to provide redress when they are not, by overturning the original decision.

The discussion above shows that we cannot always clearly distinguish between complaints which are about adverse decisions and those which are about the way people are treated. One of the reasons for this is that people do not always get formal notification of the ‘decisions’ that are made about their care services. Another is that a decision to provide someone with a service but to put them on a waiting list is not clearly an adverse decision that could be appealed. If these ‘decisions’ were formalised and people were given written notification, it could be argued that it would be easier to have an appeals procedure to deal with them. However, many complaints cross boundaries between those about decisions and those about the way people are treated and appeal procedures would not have the flexibility to deal with these.

It is also clear from this study that not all complainants seek legalistic resolutions to their problems. Some are much more concerned with ensuring

that management learns from complaints. A complaints procedure which emphasised complaints as management information would be more likely to meet the expectations of these complainants.

From a policy point of view, it is not clear what the primary purpose of the complaints procedure is. Consumerism appears to be the primary driver behind community care policy. The original Scottish guidance on social work complaints (which is still the statutory basis for the complaints procedure, although now considered by many to be out of date) reflects different perspectives. In its statement of key principles, the document states that 'there should be clearly indicated means of challenging decisions on service provision/non provision or other matters of concern to service users' (Scottish Office 1996, 15.1). However, it also says that 'the procedures should inform managers and the committee with principal responsibility for social work matters about the extent to which quality assurance and service objectives are being achieved' (15.6). A legalistic approach seems to be an unlikely purpose, given the reluctance on the part of policy makers to make community care services rights based. Recent UK policy papers on dispute resolution have tended to move away from legalistic approaches and emphasise 'proportionate dispute resolution', where the idea of informal and non-bureaucratic methods such as mediation are promoted as 'cheap, simple and stress free' alternatives (Department for Constitutional Affairs 2004, para 2.6.). The White Paper on administrative justice (Department for Constitutional Affairs 2004) and the recent National Audit Office report (2005) both stress the importance of 'sorting things out' over procedural perfectionism. However, procedural justice does matter and if there is to be

any hope of people having clear rights as citizens to community care services then the redress mechanisms need to emphasize this. Rummery (2002) argues that the key to citizenship in community care is 'clear, explicit and challengeable procedures' (p163). If people were more aware of what local authorities' responsibilities were in relation to community care services, perhaps they would be less intimidated by the idea of complaining when their expectations were not met.

An important focus of future research would be on exploring how people understand the differences between different types of redress mechanism. The National Audit Office report touches on this in its focus group research on people's understanding of grievance mechanisms (National Audit Office 2005). The current study has looked at people's understanding in one area of policy, where there is only one redress mechanism available. Other research has looked at particular mechanisms (eg social security, homelessness applications, health, education – see chapter two for details). It would be useful in future to look at areas where 'users' have a choice between using complaints, appeal or review procedures, for example in social security, to find out if people have any better understanding of the purposes of these different procedures or their appropriateness for dealing with their disputes.

Contribution made by this research

A final consideration is the contribution made by this research and what it adds to existing knowledge in the field. In chapter two I discussed the small number of studies that have been conducted on complaints in community

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care and outlined some of the research that has been carried out on other complaints procedures, particularly in health, and on grievance mechanisms generally. This study builds on the existing studies of community care complaints (Coombs and Sedgewick 1998, Dean *et al* 1996, Preston-Shoot 2001, Simons 1995), some of which were conducted in the early 1990s, and shows that perhaps little has changed in ten years. There is still considerable ambiguity as to the purpose of the procedure and some dissatisfaction in the way that it operates. Most of these studies were carried out in England, at a time when the community care complaints procedures in England, Scotland and Wales were very similar. Since devolution, policies on social work complaints in the three administrations have begun to move in separate directions (Gulland 2006). Although the procedures operated in the case study authorities are still based on the 1996 guidance, there were signs when I began this research that the Scottish Executive would update the guidance or change the procedure. This has not yet happened and the research was conducted on procedures which many agree are out of date. I hope that some of my findings can contribute to the development of the procedure in the future.

In chapter two I considered the similarities and differences between community care and health complaints. Given that there was so little research or statistical information available on community care complaints, I argued that research on health complaints would be helpful in understanding some of the issues that might arise with community care complaints. The small scale of the current research cannot provide the breadth of information that would be needed to generalise more widely

about community care complaints but it does indicate that there are some similarities.

It is important to remember that the people who complain about health services, and the things they complain about, are very diverse. This research shows that the same applies to community care complaints. Health service users and community care service users do share two things in common with each other: they all experience some form of health problem or disability or are the carers or relatives of people with a health problem or disability; and, by definition, they are dependent on the health providers or the local authority for services which could enable them to maintain their health or achieve 'independent living', or, in extreme cases, to stay alive. This puts people in a vulnerable position. Mulcahy has emphasised the importance of power differences for health complaints (2003). The current research has shown what this means to some community care complainants. The particular kind of professional power that operates in health settings is probably not so strong in the field of community care but local authorities still hold considerable power in terms of controlling resources.

Research on health complaints has suggested that they are often not 'instrumental'. The evidence from this research is that community care complaints may be more likely to be instrumental, to the extent that they are sometimes used as a means of challenging decisions about service provision. However not all complaints are of this type and many share the role that many health complaints have of 'calling the authority to account'. This research also shows that community care complaints procedures share some

of the problems found in health complaints procedure regarding the role of the ‘informal’ stage. The problems of defining ‘complaints’, whether or not they should be recorded and who should deal with them, seem to apply in both areas. The question of independence in the procedure, particularly, at the second tier review level, seems to be as important in community care as it has been shown to be in health, if only because complainants do not perceive the current system to be independent.

The current research adds to the existing body of research on health complaints by pointing out these similarities and differences and indicates that more could be done in this area. In the wider field of socio-legal studies, the research has explored some of the meanings that people attach to complaining. This raises important questions about the purpose of redress mechanisms.

Building on previous work on models of justice, the research shows that redress mechanisms have a number of different purposes and that these purposes are not always compatible. This is often neglected by policy makers, who tend to assume that the purpose of redress mechanisms is obvious. The complexities of the different perspectives held by users (or potential users) of such mechanisms and those held by staff on the receiving end are often ignored. I hope that this research helps to expand the debate.

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Appendix one – Letter to complainants



[Address]

[e-mail]

[date]

Dear Madam or Sir

Research with people who have made complaints about community care services in Scotland

I am a research student at Edinburgh University. I am carrying out research with people who have made complaints about community care services in Scotland. I am looking at three local council areas and at the moment I am interested in what happens in [local authority]. [local authority] Council Social Work Department has agreed to send out this letter to people who have used its complaints procedure in the last year or two.

I would like to talk to you because you made a complaint about community care services. I want to find out what you thought about making a complaint and what happened when you complained. I hope that this research can help me find out what makes it easier or more difficult for people to do something if they are unhappy with a service they receive. The enclosed leaflet gives some more information about my research.

I do hope that you will be able to take part in this research. It is most important that we understand more about people's experiences of making complaints. If you would be willing to talk to me about your experiences, I would be grateful if you would send back the enclosed reply slip.

Yours faithfully

Jackie Gulland
Research student.

Appendix two – Information leaflet for complainants¹⁹

University of Edinburgh

Research with people who have made complaints about community care services in Scotland

Questions and Answers

What is this research about?

I am carrying out this research for a PhD in Social Policy at Edinburgh University. My research is to find out how well complaints procedures work for people who use community care services.

How did you get my name?

[local authority]Council Social Work Department has sent these letters out to people who made complaints to them in the last year or so. The Social Work Department has not given me any names, addresses or other information about you.

What happens if I don't want to take part in this research?

If you do not want to take part in this research, you do not have to do anything. I will not contact you.

What happens if I do want to take part in this research?

If you send back the form saying that you are willing to take part, I will contact you within the next few weeks to discuss further details and will give you more information. If you are still willing to take part, I will arrange to interview you to talk about your experiences

What will happen next?

I will arrange to interview you. The interview should take about an hour. During the interview I will ask you about the complaint that you made, why you complained and what you thought about the process of complaining.

Can I have someone with me at the interview?

Yes. If you wish, you can arrange for a friend or relative to be with you at the interview.

Will the Council Social Work Department know that I am taking part in the research?

No. I will not tell the Social Work Department who has taken part or tell them who said what.

Continued overleaf

¹⁹ wording of leaflet – actual leaflet was produced in large print as an A5 flier

Will anyone find out what I say in the interview?

At the end of the research I will write a report. I will use the information that you and others give me about their experiences. I will probably use some quotes from what people have said. I will not use any names of people who took part and will make every effort to make sure that people cannot work out who said what.

Will I find out what happens at the end of the research?

I will send a summary of my research report to everyone who wants it.

How can I find out more about this research?

Please contact me if you have any questions. You can phone me on [...] or write to me at [address]

Appendix three – Initial consent form

University of Edinburgh

Research with people who have made complaints about community care services in Scotland

If you are interested in taking part in this research and would be willing to be interviewed about your experience of making a complaint about community care services, please sign and return this form in the enclosed envelope.

When you return the form I will contact you within the next few weeks to discuss what will happen next.

If you have any questions or concerns about this research, please do not hesitate to contact me by letter or telephone [...].

I am interested in taking part in this research and am willing to be contacted by the researcher. I understand that the information collected by this research will be treated as confidential. I understand that I can change my mind later on if I decide that I do not want to take part.

Signed _____

Name _____

Address _____

Contact telephone number _____

Please return this form in the enclosed envelope to: [address]

Appendix four - Interview topic guide – complainants

Questions, used as an *aide memoire*, were printed out on index cards and referred to as necessary during the course of the interview. In practice, interviews did not usually follow this order.

Introductory points

- I am conducting research with people who have made complaints about community care services. I am going to two different local council areas and [council name] is one of these. [name] Council contacted you from their records and you said you would be willing to be interviewed.
- I want to find out what people do if they are unhappy with any of the services they receive. I hope that you can help me find out what makes it easier or more difficult for people to do something if they are unhappy with a service they receive.
- I want to know about the complaint you made to the council and what happened when you complained. I am interested in what you have to say. I have some notes here to remind me about particular things I would like to know about and I may refer to these from time to time. I may also make some notes.
- There are no right or wrong answers to my questions. I am interested in your experiences and opinions. If you don't understand any questions do let me know. Also, please let me know if there are any questions you do not want to answer.

Consent

- Before I go any further, can I check that you are happy to continue with the interview?
- Do you have any questions?
- To make sure that everything is above board the University likes me to get people to sign a form to say that they are happy with being included in the research. Can we run through the questions on the form?
 - I am willing to be interviewed about my experience of making a complaint about community care services.
 - I agree that some of the things I say can be included in a final report so long as my name is not used.

Continued overleaf

- I understand that the information collected by this research will be in confidence.
- I agree that the interview can be tape recorded
- I understand that I can change my mind at any time if I no longer want to take part in this research
- I would like you to send me a summary of the research report when it is finished

Practical details

- Explain that I don't know anything about complainant, their family circumstances or the complaint
- Can you tell me something about yourself and the things that you need help with?
- Check whether interviewee is the person who needs community care services or relative or friend of the person who needs services – what is the relationship?
- *Service user*
- What sorts of things do you need help with?
- Can you tell me about the services you get from the social work department?
- How long have you been getting these services for?
- *Relative*
- Can you tell me about the person you help?
- What sort of things do they need help with?
- How do you help them?
- What services do they get from the social work department?
- How long have they been getting these services for?

Details of what was complained about

- I contacted you because you had made a complaint recently. Can you tell me about the complaint?
- What would you say was the main problem that you were complaining about?
- Can you tell me the history of the problem and what happened when you complained?

Continued overleaf

How did you complain?

- Who did you speak to first about the problem?
- Why did you contact that person/take it further?
- Did you get any advice from anyone else?
- [if yes- discuss what advice and/or help they provided]
- When you complained what did you hope would happen?

What happened when you complained?

- After you complained what happened?
- [find out whether interviewee distinguishes between response from area team and response from complaints department. Are their views of each of these different?]

Satisfaction with complaints process

- How happy were you with what happened after you complained?
- What could have been done differently?

Taking the complaint further

- If you weren't happy with the result, did you think about taking it further?
- Why did you not take it any further?
- If you hadn't been happy with the result, what would you have done?

Information you received

- Did you receive any information from the council about how to complain about community care services?
- Can you remember when you got this information?
- Can you remember who gave you this information?
- How useful was the information that you received?
- Past experience of social work department, these kinds of systems?

Continued overleaf

Things you didn't complain about

- Were there other things that were problems that you did not complain about?
- Why did you not complain about these?

Making complaints before

- Have you ever had problems with social work before this that you complained about?
- What happened then?
- Were you happy with the way that was dealt with?

Making it easier to complain in the future

- What would you do if you had problems in the future?
- What do you think would make it easier for you or other people to complain about any problems you might have in the future?

Other people

- Do you know anyone else who has had problems with social work?
- How easy do you think it would be for them to make complaints?

Other ways of making complaints

- Did you think about contacting anyone else to complain about your problem?
- Who else did you think about contacting?
- Did you contact them?
- What happened?
- Or why did you decide not to contact them?

Use of complaints information

- What do you think the social work department does with information it gets from complaints?
- What should it do?

Continued overleaf

Anything else

- Is there anything that I have missed?
- Do you have anything else that you would like to tell me about the things we have discussed

Closing remarks

- Contacting again
- You have given me some very useful information today. I will probably not need to ask you any more questions but something might occur to me when I go back over what you have said. Would it be all right for me to get back in touch with you if necessary?
- I will (as agreed) send you a summary of my report in about [date]
- Thank you for helping me by taking part in this research. As I have explained before, all the information you have given me will be treated as confidential confidence. I will not pass your details on to anybody else, and your name will not appear in anything I write about this research.

Appendix five - Interview topic guide – advocates

Questions, used as an *aide memoire*, were printed out on index cards and referred to as necessary during the course of the interview. In practice, interviews did not usually follow this order.

Introductory points

- I am conducting research with people who have made complaints about community care services. I am going to two different local council areas and [name council] is one of these. [name] Council contacted you from their records and you said you would be willing to be interviewed.
- I want to find out what people do if they are unhappy with any of the services they receive. I hope that you can help me find out what makes it easier or more difficult for people to do something if they are unhappy with a service they receive.

Introduction 2

- I am interested in what happens when people are unhappy about a decision on community care services and also in what happens when people have a problem with the services provided.
- Although my main focus is on people who *have* used the complaints procedure, I am also interested in why people don't use it. I know that advocacy organisations do a lot with community care service users and help them without using the complaints procedure. So I am as interested in this.

Consent

- Before I go any further, can I check that you are happy to continue with the interview?
- Do you have any questions?
- To make sure that everything is above board the University likes me to get people to sign a form to say that they are happy with being included in the research.
- I am willing to be interviewed about my organisation's experience of dealing with grievances about community care services.

Continued overleaf

- I agree that some of the things I say can be included in a final report so long as my name and my organisation's name is not used.
- I understand that the information collected by this research will be in confidence.
- I agree that the interview can be tape recorded
- I understand that I can change my mind at any time if I no longer want to take part in this research
- I would like you to send me a summary of the research report when it is finished

Practical details

- Can you tell me something about your organisation and what services you provide?
- What client group do you work with?
- What sort of issues do people come to you about?
- I'm particularly interested in social work services. How much of your work is helping people with problems with social work?

Details of what was complained about

- I contacted you because you had made a complaint on behalf of a client recently. Can you tell me about the complaint?
- What would you say was the main problem that you were complaining about?
- Can you tell me the history of the problem and what happened when you complained?

Use of the complaints procedure

- How often would you say you use the complaints procedure on behalf of clients, or help them to use the complaints procedure?
- How well would you say it works?
- Formal v informal – do you see a distinction between making a complaint to the local office and making a complaint to the complaints department? How do these compare?

Continued overleaf

Taking the complaint further

- Have you ever used the 'higher' levels of the complaints procedure? Taking complaints to the complaints review procedure or to the Ombudsman?
- How effective are these stages?

Giving up

- Do you have any experience of people giving up on a problem, ie not pursuing the procedure as far as they can?
- Why do you think this happens?

Things you didn't complain about

- When you don't use the complaints procedure, what other methods do you use to pursue clients' problems?
- What would be the difference between following up a problem and using the complaints procedure?

Advocacy

- What would you say is the role of advocacy in sorting out people's grievances?
- Do people tell you about what they have done by themselves, prior to contacting you? What does this tell you about the effectiveness of complaints procedures?

Making it easier to complain in the future

- What do you think would make it easier for you or other people to use the complaints procedure?

Anything else

- Is there anything that I have missed?
- Do you have anything else that you would like to tell me about the things we have discussed

Continued overleaf

Closing remarks

Contacting again

- You have given me some very useful information today. I will probably not need to ask you any more questions but something might occur to me when I go back over what you have said. Would it be all right for me get back in touch with you if necessary?
- I will (as agreed) send you a summary of my report in about [date]. Thank you for helping me by taking part in this research. As I have explained before, all the information you have given me will be treated as confidential confidence. I will not pass your details on to anybody else, and your name will not appear in anything I write about this research.

Appendix six - Interview consent form

University of Edinburgh Research with people who have made complaints about community care services in Scotland

Consent to interview

<input type="checkbox"/>	I am willing to be interviewed about my experience of making a complaint about community care services.
<input type="checkbox"/>	I agree that some of the things I say can be included in a final report so long as my name is not used.
<input type="checkbox"/>	I understand that the information collected by this research will be in confidence.
<input type="checkbox"/>	I agree that the interview can be tape recorded
<input type="checkbox"/>	I understand that I can change my mind at any time if I no longer want to take part in this research
<input type="checkbox"/>	I would like you to send me a summary of the research report when it is finished

Signed

Name

Appendix seven - Interview topic guide - complaints officers and social work managers

Questions, used as an *aide memoire*, were printed out on index cards and referred to as necessary during the course of the interview. In practice, interviews did not usually follow this order. In each case study area, I also followed up specific issues that seemed to have arisen in interviews in that area, either to clarify procedural points or to follow up issues that these raised.

Introduction

- I am interested in what happens when people are unhappy about a decision on community care services and also in what happens when people have a problem with the services provided.
- Although my main focus is on people who *have* used the complaints procedure, I am also interested in why people don't use it.

Practical details

- Can you tell me what your responsibilities are?
[to managers] You are responsible for a geographical area?
- My interest is specifically in community care – so perhaps we can focus on issues relating to that

Role in complaints procedure

- What would you say your role is in the complaints procedure?
- From speaking to people there seems to be a bit of confusion as to when people should complain to the local office or when they should complain 'higher up'. Do you have a view on that?

Purpose of procedure

- I suppose I'm interested in your view of what the purpose of the complaints procedure is. What do you think it is intended to do?
- quality control?
- Providing redress?

Continued overleaf

Formal/informal

- Formal v informal – do you see a distinction between making an informal complaint and making a formal complaint? What do you think the difference is?
- Do you record informal complaints at all?
- Would you see any value in doing this?

Making it easier to complain in the future

- How well do you think the procedure works at present?
- What do you think would make it easier for people to use the complaints procedure?

Third parties

- What happens when somebody complains to you about something that is the responsibility of a third party, for example a private residential care home or the council's home care service?

Types of complaints

- Do you see any pattern to the types of complaints that you get? Eg Quality of services versus decisions

Use of complaints information

- How do you use the information you get from complaints?

Complaints review committee

- What do you think about the complaints review committee?
- Have you ever been involved in a case which went to a CRC?
- If it were to be reformed, would a different system be better?

Appendix eight - Focus groups topic guide

Introduction

- Explanation of purpose of research and what will be done with focus group material. Issues of confidentiality and anonymity
- Proposed feedback to be provided – to the vol org rather than individual participants.
- Use of tape recorder

Explanation of previous research

- Interviewed 36 people who had had a problem with community care services and who had made a formal complaint about it
- People varied from people in their 70s and 80s to young people with learning disabilities. Half the people had made complaints on behalf of relatives.
- People's problems had been with a variety of services: home care, adaptations, transport, day centres, residential care or financial issues
- Some people's problems had been to do with the attitudes of staff; others were about not getting services they felt they should have; or about delays in getting services

Some examples – provide outline of some 'typical' complaints

Introductions

- Can you tell me a little bit about yourself and any community care services you use?

Starting questions

Purpose to get group talking about negative experiences of community care services and whether they did anything about it

- Have you ever had a problem with a community care service?
- What did you do?
- How did you decide to do that rather than something else?
- Have you ever thought about complaining but didn't?

Continued overleaf

Focusing exercise

Here are some things that people have said to me about complaining (see below)

Participants were asked to comment on these quotations and were asked:

- Have you ever felt like that?
- Do you agree with what this person says?
- What do you think about complaining?
- What do you think would make it easier for people to complain?

The purpose of this exercise was not to get 'answers' to these questions but instead to generate discussion around the meaning and purpose of complaining.

Ending

- final 'round' of summaries

Summarise some of the things that people have said and ask each participant to comment on it. The detail would obviously depend on what had been said up until that point.

Closing

- Reminder of confidentiality and reporting plans
- Any questions
- Thanks

Continued overleaf

Focus groups – wording of prompt cards for focusing exercise (used in focus group one only)

Some things people said about why they complained

That's why I keep going because I feel other people might be in the same situation and that's not right.

If enough people complained they would soon do something about it.

It's not a very nice way of doing it but sometimes it's the only way.

I feel that if people don't do their job properly or don't provide the service that they are being paid to provide, then you should complain.

Some things people said about why people don't complain

I thought I might just be making a nuisance of myself. I didn't want to be a bother.

The last thing I want to do is take up my time complaining.

Most people will complain but they won't put it in writing.

People don't complain because people might lose what they've got.

But I didn't say anything. I thought 'it's past, it's gone'.

You just have to fight for a whole lot of things throughout that you just get exhausted.

Appendix nine - Information provided to focus group members

Research on complaints procedures for community care

What is this research about?

I am carrying out this research for a PhD in Social Policy at Edinburgh University. My research is to find out how well complaints procedures work for people who use community care services. I am interested in finding out what happens when people make complaints and also in why people don't make complaints.

So far I have talked to people who have made complaints in two local authorities in Scotland. I would now like to talk to people who use community care services but who may not have made complaints. My purpose in coming to meet with your group would be to ask you about what happens when you are unhappy with some aspect of community care services, what you would do about it, whether you would use the complaints procedure, and if not, why not.

Will anyone find out what I have said?

Any information that you give me will be kept confidential. At the end of the research I will write a report. I will use the information that you and others give me about their experiences. I will probably use some quotes from what people have said. I will not use any names of people who took part and will make every effort to make sure that people cannot work out who said what. I do not want anyone to talk about personal experiences if they do not want to but I am interested in what you think.

I hope that this research can help me find out what makes it easier or more difficult for people to do something if they are unhappy with a service they receive. I do hope that you will be able to take part in this research. It is most important that we understand more about people's experiences of dealing with problems with community care services.

How can I find out more about this research?

Please contact me if you have any questions. You can phone me on [...] or write to me at [address]

Appendix ten - Report to complainants²⁰

Complaints about community care: interim report Jackie Gulland University of Edinburgh September 2005

What is this report about?

This report describes what I found out when I spoke to sixteen people who had made complaints about community care services in one local authority area in Scotland. I have not given full details of the complaints that people made, nor have I named the local authority. Instead I have described complaints in general terms. This has been done in order to protect people's privacy.

This study is the first stage of research which I am carrying out for a PhD in Social Policy at the University of Edinburgh. I plan to carry out more research, both in this area and in another local authority in Scotland. I hope this will allow me to find out more about what people think about the complaints procedure. It will take another year or so before this is finished. I will send a report to the councils involved in the research and also to the Scottish Executive. I hope that they will read what people said to me and that any future changes to the complaints procedure can take account of this.

Contents	<i>Page</i>
Who did I talk to?	1
What did people complain about?	2
Why did people make a formal complaint?	3
What happened when people complained?	3
What did people think about complaining?	4
Taking things further	4
How could the complaints procedure be improved?	5
Conclusions	6
Further information	6

Who did I talk to?

The social work department sent a letter from me to people who had made complaints in the previous eighteen months. Those who were willing to be interviewed sent me back a form saying that I could contact them. I spoke to most people in their own homes and I spoke to some people over the phone.

Service users or relatives?

I interviewed sixteen people who had made complaints. Of these, seven people were users of social work services, or people who had attempted to get social work services for themselves and nine were relatives of people who had used social work services.

These are my initial findings, based on interviewing 16 people who had made complaints in one local authority. I still have more research to do and have quite a lot of work to do on analysing the information. Please do not pass on the information in this paper, without speaking to me first.

²⁰ Example of one report to complainants. Copy of report reduced in size to fit on page.

What sorts of disabilities?

Eleven of the people that the complaint was about had physical disabilities (including older people), four had learning disabilities, two had mental health problems and three had dementia. Some people had more than one disability, which explains why the numbers add up to more than sixteen.

Age range

The age of complainants ranged from people in their early 20s to those who were over 70. Half of the people who complained were over 60 and half were under 60.

Men and women

Nine of the sixteen complainants were women and seven were men.

What sort of areas did people live in?

Seven out of the sixteen complainants lived in areas which were considered to be more deprived than average (based on the Scottish Multiple Deprivation Index, which classifies areas according to average income levels, health problems, educational qualifications, housing quality and access to amenities). The others lived in less deprived areas.

What did people complain about?

People complained about a range of different services. The services people complained about are shown in the table below.

Type of service	Number of complaints
Home care	4
Finance department	5
Occupational therapy services	3
Support services (eg day centres, transport, social workers)	4

People complained about a range of different problems. The main types seemed to be:

Staff attitudes: for example the way they had been spoken to by staff or the way they had been treated

Financial issues: for example the financial assessment for residential care or charges for a particular service

Not providing a service: for example when somebody had asked for a service provided by social work or an adaptation and had not got it

Quality of services provided: for example if somebody was getting a service but they were unhappy with something about it, such as damage to belongings or unreliability of transport arrangements.

The numbers of each type of complaint are shown in the table below. The total adds up to more than sixteen because some people complained about more than one thing, for example a problem with providing a service *and* the attitudes of staff.

Type of complaint	Number of complaints
Staff attitudes	2
Financial issues	5
Not providing a service	5
Quality of services provided	5

Why did people make a formal complaint?

I asked people why they had made a formal complaint, rather than just talking to the local office or the person who provided the service. In most cases people had spoken or written to the local office already and had been unable to resolve their problem. However some complaints *had* been resolved at a fairly local level.

Other reasons that people gave were:

- they didn't want to complain to the person who they saw as having caused the problem
- they had been advised to take it further by the local office
- a voluntary organisation or a councillor had advised them to make a formal complaint.

How did people find out about how to complain?

Some people were told about the complaints procedure by staff in the social work department or the council. Sometimes this information appeared to have been given quite reluctantly, although some people stressed that local offices had been particularly helpful in advising them about their rights. Others stressed the importance of getting information and support from voluntary organisations or councillors.

However, quite a lot of people said that they had not particularly followed the complaints procedure. Instead they just knew what to do, either because they had been using social work services for a long time, or because they expected to be able to complain about something they were not happy about.

What happened when people complained?

What did people hope would happen when they complained?

People's hopes about what would happen obviously depended on what their complaint was about. For example, those who were complaining because they had not got a service, wanted to have the service provided. Those who complained about staff attitudes often wanted an apology or for a different person to provide services to them in future. People with financial complaints wanted to have invoices cancelled or to have their finances re-assessed. Quite a lot of people also said that they wanted some reassurance that the problem would not arise again and wanted to make sure that the social work department managers knew about the problem. They also hoped that this would help other people.

What did happen?

Some of the people who had complained were very happy with the outcome. Their problem had been sorted out and they were reassured that it would not happen again. This was the case with the people who had been experiencing problems with their home care arrangements and with some of the people who had been wanting a service to be provided. In the case of two people who had complained about financial issues (receiving bills for services which they did not feel they were liable for) the invoices had been cancelled and the problem solved. With some people the problem had been resolved but they were not certain that it had been as a result of their complaint. For example someone, who had wanted a change of social worker, had got a new social worker but thought that this would have happened anyway and that the complaint had been ignored. Another person got the services they were looking for but thought that it might have been because of other action they had taken rather than the complaint itself.

Taking things further

Seven people were not happy with the result of what had happened when they complained. If somebody is unhappy with the outcome of their complaint, they can take the complaint further, by taking it to an independent complaints review committee and, if they are still unhappy, by complaining to the Scottish Public Services Ombudsman. I asked people whether they had considered doing this.

Some people who were still unhappy with the result of their complaint had not taken their case to a complaints review committee. Their reasons for this included: that they did not know they could; that they did not think there was any point; or that the council was still dealing with the problem in some way.

Complaints review committees

Three of the people I spoke to had taken a complaint to a complaints review committee. A fourth had made a formal application to a complaints review committee but the complaint had been resolved before a hearing was held. Of those who attended the complaints review committee, two complaints had not been upheld. One person accepted the decision, the other was continuing to pursue the local authority in other ways to try and get the decision reversed. One complaint had been upheld by the complaints review committee but the local authority had apparently changed the decision after the hearing. The complainant had taken the case to the Ombudsman. Those who had been to the complaints review committee were quite sceptical about how useful it had been. They all felt that, although the committee was independent of the council, it was relied heavily on legal advice from the council legal adviser. They felt that this made it difficult for the committee to be unbiased in its decision making.

Complaining to the Ombudsman

One person had taken their complaint to the Ombudsman. The Ombudsman had upheld the complaint and the local authority had eventually apologised for the action complained about.

Why did people not take complaints further?

Not everybody was happy with the decision that they had received about their complaint, whether or not they had been to the complaints review committee. Three people, whose complaints related to financial issues, still considered that they were in dispute with the council and were refusing to pay bills sent by the council in the hope that this would lead either to some formal court action where they could have their case heard again or that the council would eventually give up pursuing them. Others were pursuing other approaches, such as contacting MPs, MSPs or local councillors, taking legal action, going to the press or getting involved in community activities that they hoped would change things in the long run. One complainant had given up complaining because the need for services had passed.

What did people think about complaining?

People's opinions about the complaints procedure varied considerably, depending on what they had been complaining about and what happened to their complaint.

Problems

Some people pointed out problems they had found with the complaints procedure. Some opinions were:

- The time it takes for a complaint to be resolved
- The attitudes of some staff before the complaint was formally recognised
- A feeling that the social work department will always stick up for its own staff and not take complaints seriously
- The difficulty of complaining about services if it might have a negative effect on the person needing them

What did people think about complaining? *continued*

- Some people hated the idea of ‘complaining’ and felt that they could only complain if their problem was very serious
- That you shouldn’t have to make a formal complaint and that some of the problems could have been sorted out more quickly if they had just been listened to in the first place
- Concern that the procedure was not always followed and it had taken several letters and phone calls before their complaint had been taken seriously
- Lack of independence of the complaints review committee
- Concern that the procedure described in the leaflet was not always followed.

Good things

Others wanted to stress what had gone well when they had complained, for example:

- Being able to use the complaints procedure to show where the problems were and hoping that this would mean the social work department would do something about it
- Pleased that their complaint had been acknowledged and something had happened as a result of it
- Being treated with respect and having their complaint taken seriously
- That the person responsible for dealing with complaints had been extremely helpful. Many people were impressed with the effort that this person had made to listen to their problem and the relative independence from the social work structures. In some cases it was only at this stage that they had properly understood their legal position.

A lot of people said that they thought that other people would find it very difficult to complain. They thought that many service users would be worried about the effect it might have on the services they were getting, or that people were very accepting and didn’t like questioning the social work department.

Many of the people I spoke to saw themselves as ‘fighters’ or people who would not be prepared to put up with injustice. They thought that other people would not be as confident as they were. Many people mentioned the fact that it is very time-consuming to follow a complaint through. Some mentioned the practical difficulties of making phone calls or writing letters and many mentioned that it had been a stressful thing to do.

How did people think the complaints procedure could be improved?

Some people thought that the complaints procedure was fine as it was. Others had strong feelings or ideas about how it could be improved. Some of the suggestions that people made were:

- More publicity about the complaints procedure
- Making sure people have enough information about their rights generally. Many people pointed out that they had found it a struggle to find out what they might be able to expect in the first place, before they could even think about complaining
- Telling people that they have a right to complain right at the start, especially when they are turned down for a service or a decision is made about a financial issue
- The social work department should admit sometimes that they are in the wrong and have made a mistake
- Making sure that the procedures are actually followed
- Having an independent procedure, not one run by the social work department.

Conclusions

The purpose of this research was not to find out whether or not this particular council was operating its complaints procedure well. I wanted to find out how people felt about making complaints and what would make it easier for them in more general terms. People's experiences vary but a few things did seem clear:

- People thought very carefully before making complaints. None of the people I spoke to seemed to have made their complaint lightly and many were quite concerned about whether it had been the right thing to do.
- Information about how the complaints procedure works had not reached very many people. Although some had seen a leaflet or had been told how it worked, most people had complained because they 'just knew what to do'. As a result of this, not everyone was clear about what might happen next or what rights they might have to take their complaint further.
- Many people found making a complaint difficult and tiring.
- Many people commented on the helpfulness of the person responsible for dealing with complaints and valued the independence of this person.
- Most people hoped the social work department would learn from their complaint and they hoped that other people would be helped by this.

It is important to remember that these views are from a small number of complainants. Many more people make complaints and may have different views. Many people may also decide not to complain about a problem and their views are not shown here.

In the next stage of my research I hope to find out more about the views of people who have not complained. I hope that this report and my wider research project will help to make it easier for people to complain in the future.

Acknowledgements

I would like to thank all those who agreed to talk to me about their experiences of making a complaint about community care services. I appreciate the time that people took and also that they were willing to talk to me about very personal and sometimes emotional matters. I would also like to thank the local authority for enabling me to contact complainants through their complaints records and for the help given by the officer responsible for dealing with complaints.

Appendix eleven - Report to focus group members²¹

Complaints about community care: Report on group discussions Jackie Gulland

The University of Edinburgh

October 2006

What is this report about?

This report describes what I found out when I spoke to four groups of people about community care services in two local authorities in Scotland: two of the groups were older people who used community care services, one was a group of carers and one was a group of people with disabilities. I have not given full details of the groups or the names of the local authorities. This has been done in order to protect people's privacy.

This study is the second stage of research which I am carrying out for a PhD in Social Policy at the University of Edinburgh. During the first stage I interviewed 36 people who had made complaints about community care services in the same two local authorities. I also spoke to some social work staff and the complaints officers in the two local authorities. My final report will include an analysis of what all these people told me. It will take me another six months or so before this is finished.

Contents	<i>Page</i>
Who did I talk to?	1
What did we talk about?	2
Knowledge and information	2
Attitudes to complaining	2
Learning from complaints	2
How could it be made easier for people to complain?	3
Conclusions	4
Further information	4

Who did I talk to?

The four groups that I met were all people who met regularly: the older people all used care services of some kind and met to discuss local services and feed information back to the local authority. The carers' group was a support group for people who cared for people with disabilities. Most of the carers were older people themselves and cared for partners or parents. The disabled people met regularly to support each other and take up local issues. There were between five and eight people in each group. There were twenty two women and four men altogether. In the older people's groups there was also a facilitator and a note taker present. I met for about an hour with each group.

I still have more work to do on analysing the information. Please do not pass on the information in this paper, without speaking to me first.

²¹ Copy of report reduced in size to fit on page

What did we talk about?

With each of the groups, I explained first of all what my research was about and told them something about the first stage of my research. I told each group some of the things that people told me about making complaints. I then asked the groups to talk about any times that they had had problems with community care services or what they thought they would do if they had a problem. In each group people were very willing to talk: some people talked about problems they had experienced in the past and how they had dealt with them; some people had made complaints; others had not complained but had dealt with the problems in other ways. Some people, particularly in one of the older people's groups, said that they had not had any problems and wanted to tell me how good their services were.

The rest of this report describes some of the things that people said.

Knowledge and information

In all four groups, people told me that they did not know very much about how the complaints procedures worked. Although some people had made complaints in the past, most people did not know who they should complain to or what would happen to their complaint. Many people, however, said that if they did have a problem they would be able to take it up with someone, either with a local manager or at a higher level.

Many people pointed out that it was difficult to complain about community care services if you didn't know what you might be entitled to in the first place. They also talked about this problem in relation to other services such as health and pensions. The important point that they wanted to make was that people need information about services so that they can ask for what they need and so that they can challenge decisions they are unhappy with. One group also wanted to know more about how decisions were made. They felt that some people got services while others didn't and it wasn't clear why this was.

One group was concerned about information for visually impaired people. They said that too much information was provided in writing and it was difficult for people with visual impairments to get information.

Some people thought it would be easier if they were given more information about possible services and also more information about how to complain if they needed to.

Attitudes to complaining

Some people were worried about the idea of complaining. They felt that it might seem rude or that it might make it look as if they were being difficult. Others said they would not be worried about complaining as it is important to complain if something is going wrong. Some people were concerned that complaining might have a negative effect on the services they or their relatives received. Some people said that they didn't mind being considered 'troublemakers' as this was the only way to get things done.

Attitudes to complaining continued

There was some discussion in the groups about who was the best person to complain to. Some people felt that you should always take a problem up with the most local person first, for example a home help or home care organiser. Others didn't think that this would work and said that you should go straight to someone more senior.

A couple of groups were quite cynical about whether complaining would make any difference as they felt that quite often the council would always support its own staff and make excuses for why things were not being done properly.

There was also a discussion in a couple of the groups about what people could do if their problem was a more general one, affecting lots of people. Most people thought that complaining would not be of much use in these cases and that it would be better to get together with other people to let the council know their views. However, they also thought this would be difficult to do. One group said that they would contact their local councillor and this would be the most effective thing to do.

Some people, particularly those in the carers' group, said that it was difficult to complain when they were caught up in the day-to-day business of looking after a relative. They said they would just be too exhausted to start taking up a complaint.

Learning from complaints

I asked the groups if they thought the local authority should use the information it receives from complaints to improve services. Most people didn't think that this would happen. An individual problem might get sorted out but it wouldn't necessarily mean that the local authority would learn from it.

How could it be made easier for people to complain?

In each of the groups we talked about how it could be made easier for people to complain. Some of the suggestions that people made were:

- More publicity about the complaints procedure
- Making sure people have enough information about their rights generally. Many people pointed out that they had found it a struggle to find out what they might be able to expect in the first place, before they could even think about complaining.
- Telling people that they have a right to complain right at the start, especially when they are turned down for a service or a decision is made about a financial issue.
- Providing advocacy services so that people can get help with making complaints
- The social work department admitting sometimes that they are in the wrong and have made a mistake
- Social work managers doing more to visit people and find out what actually happens on the ground.

Conclusions

The purpose of this research was not to find out whether or not particular councils were operating their community care services or their complaints procedures well. I wanted to find out how people felt about making complaints and what would make it easier for them in more general terms.

Generally I found that people did not find the idea of complaining easy. There were many reasons why people would not make complaints. These ranged from not wanting to criticise services that were generally good to feeling that there would be no point in complaining because nothing would ever change. The main concern people had was that they felt they did not have enough information about what services should be available to them. They felt that if they had more information about what might be available, what standards they could expect, and who they should complain to, they would be happier about complaining if things went wrong.

The people in the individual interviews who had made complaints said quite similar things: they had not found it easy to complain, they felt they did not know enough about what services should be available and many had found it time-consuming and tiring. Some people however had positive experiences and found the complaints procedure and the complaints officers helpful. Their problems had been dealt with and they hoped that the council would learn from these mistakes.

What happens next?

I still have some work to do analysing the information that people gave me. When I have done this I will write it up in a report for the University and for the councils involved. I hope that this report and my wider research project will help to make it easier for people to complain in the future.

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Further information

For further information about my research, please contact:

Jackie Gulland, University of Edinburgh, School of Social and Political Studies, [address and e-mail]